Calendar No. 646

99TH CONGRESS *2d Session*	SENATE	REPORT 99-296

HIGHER EDUCATION AMENDMENTS OF 1986

REPORT

OF THE

COMMITTEE ON LABOR AND HUMAN RESOURCES UNITED STATES SENATE

TO ACCOMPANY

S. 1965

together with
ADDITIONAL VIEWS

MAY 13 (legislative day, MAY 12), 1986.—Ordered to be printed

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HIGHER EDUCATION AMENDMENTS OF 1986

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Mr. STAFFORD (for Mr. HATCH), from the Committee on Labor and Human Resources, submitted the following

REPORT

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ADDITIONAL VIEWS

[To accompany S. 1965]

The Committee on Labor and Human Resources, to which was referred the bill (S. 1965) to reauthorize and revise the Higher Education Act of 1965, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

I. STATEMENT OF PURPOSE

It is the purpose of this bill to modify the existing Higher Education Act of 1965 by taking into consideration the ever changing educational needs of our Nation. Since the last reauthorization in 1980, the average cost of a four year private institution has nearly doubled and the tuition at public colleges has risen by close to two-thirds, the average age of student recipients has increased as has the number of single parents returning to school. Students are forced to undertake increasingly large debt burdens upon finishing school. While the Committee finds that the existing programs have, for the most part, been successful and have followed the intent of the originating legislation, S. 1965, as reported herein, modifies existing law by taking into consideration these changing educational trends.

II. INTRODUCTION

On February 14 and 15, 1985, a joint hearing was held in Burlington, Vermont between the Senate Subcommittee on Education, Arts and Humanities and the House of Representatives Subcommittee on Postsecondary Education. That hearing was chaired by Senator Robert T. Stafford of Vermont, and Congressman James Jeffords, also of Vermont. The purpose of that hearing was to allow educators, students and parents the opportunity to participate in the reauthorization of the Higher Education Act of 1965. It was that first hearing that aided the Subcommittee in defining the objectives and the parameters of the reauthorization. The witnesses who appeared spoke to the effectiveness of existing legislation and the importance of federal financial assistance to assure access to postsecondary educational opportunities for everyone. The availability of this financial aid is counted upon by students and their families for several years before college and vocational school applications are completed. The witnesses who appeared before the Subcommittee made a strong case for stabilizing existing programs. One college president stated that a number of students forfeited their deposits and withdrew applications when newspaper headlines announced proposed reductions in student financial aid by the Administration. In FY 86 the Congress appropriated 8.65 billion dollars for the Higher Education Act. Ninety-five percent of these funds are for student financial assistance. The remainder provide institutional support. The largest programs of federal support are the Pell Grant Program and the Guaranteed Student Loan Program. In 1979 a maximum Pell Grant award at a private institution paid for 33% of the cost of attendance. At a public school that percentage averaged 55%. Today, the same maximum Pell award pays for 20% of the cost of attending a private college, and 37% of costs of a public institution. Consequently, it is estimated that 56% of the lowest income students are forced to borrow money to attend school. Furthermore, students ineligible for adequate grant assistance are rapidly increasing their loan debt as postsecondary educational costs continue to rise.

Testimony presented at the Vermont hearing was reiterated by witnesses who appeared before the Subcommittee in Washington and at other locations around the nation. Subcommittee members concluded that making more Pell Grant assistance available was the number one goal of this reauthorization. Furthermore, it was imperative that aid be fairly and equitably distributed among eligible students. The profile of students on campuses around the nation has changed dramatically since 1965. At this time, close to 50% of students enrolled in postsecondary education programs are beyond the age range of 18–22 years. These students are often independent financially and have other family members dependent on them for financial support while attending school.

A final major concern of the Committee members in drafting this reauthorization was the need for fiscal restraint in light of the budgetary crisis facing Congress. The Higher Education Act is a massive piece of legislation which authorized numerous programs within its Titles that have not been appropriated in recent years. Committee members examined these programs closely and targeted for repeal those programs that had remained unfunded or had never been appropriated. Remaining Titles, with the exception of Title IV, were generally limited to a 5% increase from currently appropriated levels as the new authorization ceilings. Special exception to this rule required the agreement of all members. A summary of the authorization levels included for all Titles of the Higher Education Act in S. 1965 follows.

III. LEGISLATIVE HISTORY AND VOTES IN COMMITTEE

The Senate Subcommittee on Education, Arts and Humanities began the reauthorization process of the Higher Education Act on February 14th, 1985, with a 2 day joint hearing in Vermont with the House Committee on Education and Labor. Subsequently, the Subcommittee held 6 days of hearings in D.C. and 7 days of hearings throughout the Country.

On December 12, the Subcommittee on Education, Arts and Humanities met to consider and report an original bill to reauthorize the HEA of 1965. The bill, as reported from Subcommittee, was a result of the suggestions and problems which had been discussed during the hearings.

On December 17, Senator Stafford, on behalf of himself, and Senators Pell, Quayle, Weicker, Dodd, Wallop, Matsunaga, Simon and Pressler introduced S. 1965, the Higher Education Act Amendments of 1985.

On March 19, 1986, the full Committee on Labor and Human Resources met to discuss S. 1965. Senators Hatch, Stafford, Quayle, Nickles, Hawkins, Thurmond, Weicker, Wallop, Grassley, Kennedy, Pell, Metzenbaum, Dodd, Simon, and Kerry all were present and voted to report the bill, as amended by a committee substitute, to the full Senate. Other amendments which were discussed and successfully adopted include: Senator Quayle's amendment to allow proprietary schools to participate in the CWS program on campus; Senator Simon's amendment to rename the National Talented Teacher Fellowship program the Christa McAuliffe Talented Teacher Fellowship program; Senator Simon's amendment to give the Secretary the authority to stress early intervention for graduate training for minorities and women in the TRIO program; Senator Simon's amendment to require disclosure of foreign gifts over $100,000; and Senator Stafford's amendment to change the rate of reinsurance to the guarantee agencies to 100%-80%-70%.

IV. SECTION-BY-SECTION ANALYSIS

Title I

Section 1 of this bill cites the short title as the "Higher Education Amendments of 1986".

Section 2 gives the Act an effective date of October 1, 1986, except where otherwise provided.

Section 3 of the bill specifies that the authority to enter into contracts under this act is effective only to the extent that there are sufficient appropriations.

PELL GRANT PROGRAM

Section 101 extends the authorization for the Pell Grant program through 1991 and limits the eligibility to those with family income of less than $30,000, after subtracting Federal and State income taxes.

Section 102 limits the maximum grant that a student can receive to: $2,400 in academic year 87–88, $2,600 in 88–89, $2,800 in 89–90, $3,000 in 90–91, and $3,200 in 91–92, less the expected family contribution.

Additionally, this section limits the amount of the grant to 60% of the cost of attendance at the institution the student is attending. Any crediting of the students grant at the institution shall be limited to mandatory tuition and fees, unless the student elects to have his or her grant credited differently.

Section 103 of the bill, defines the term "cost of attendance" as:

(1) the student's tuition and uniform compulsory fees at the institution, plus

(2) an allowance for room and board, books, supplies, transportation, and miscellaneous expenses (and child care for independent students) which is limited to $1,800 for students without dependents living at home, and $2,400 for all other students;

except that, if the maximum grant is greater or less than $2,400, then the allowance shall be increased or decreased accordingly.

Section 104 of the bill amends Sec. 411 of the law by including the family contribution schedule. The expected family contribution schedule for a dependent student and for an independent student with dependents (other than a spouse) shall be determined differently than the expected family contribution schedule for single independents or for independents with just a spouse. This section specifies the elements which are to be considered when determining the expected family contribution, the way in which the elements are to be counted when determining the expected family contribution for dependent students and for independent students with dependents (excluding a spouse), and the way in which the elements are to be counted when determining the expected family contribution for other independent students.

Section 105 of the bill amends the process by which Pell Grants are calculated and awarded to the students. This section allows the financial aid officer, once he or she receives the SAR, to examine and assess the correctness of the estimated award; make the award to the student in the corrected amount; and report the corrected amount of the award back to the contractor for confirmation. If the student receives an overaward due to an error by the institution, then the institution is responsible for the excess. Additionally, this section requires that each contractor shall prepare and submit an annual report to the Secretary stating the amount of awards calculated and miscalculated. This report, along with recommendations by the Secretary shall be sent to the Authorizing and Appropriating Subcommittees which have jurisdiction over this program in both the Senate and the House of Representatives.

SUPPLEMENTAL OPPORTUNITY GRANT PROGRAM

Section 107 of the bill extends the authorization for the Supplemental Educational Opportunity Grant program through 1991 and sets the authorization levels at $433,125,000 for FY 87, $454,781,000 for FY 88, $477,520,000 for FY 89, $501,396,000 for FY 90 and $526,466,000 for FY 91.

Section 108 of the bill increase the maximum allowable grant to $3,000.

Section 109 of the bill states that when awarding grants under this subsection, priority shall be given to students with exceptional need, and to those students who receive Pell Grants. This section defines exceptional need as those whose expected family contribution does not exceed 50 percent of the cost of attendance at the institution.

Section 110 of the bill amends Sec. 413D of the law by directing the Secretary to allocate the appropriation to each institution according to their allocation from the money appropriated for FY 85. Any increase in appropriations from the amount appropriated for FY 85 shall be apportioned to each institution according to the ratio of the number of eligible students in the institution compared with the total number of such students in all institutions of higher education.

STATE STUDENT INCENTIVE GRANT PROGRAM

Section 112 of the bill extends the authorization for the SSIG program through 1991 and sets the authorization level at $76,000,000 for each year.

Section 113 amends section 415A(a) of the law by expanding the SSIG program to include grants to eligible students for campus-based community service work-learning study projects. The federal share for these grants shall be 60 percent for each fiscal year. This section defines community service.

Section 114 amends the current law by requiring that only students who are eligible for state grants under the SSIG program will be counted for purposes of federal SSIG allocations.

Section 115 amends section 415C of the law by requiring that each State pay the non-Federal share of the cost of the SSIG program from State or other non-public sources.

STUDENT SUPPORT SERVICE PROGRAMS

Section 117 of the bill extends the authorities for the Student Support Service Programs (commonly known as TRIO) through 1991 and sets the authorization levels at $118,339,000 for FY 87, $197,756,000 for FY 88, $207,644,000 for FY 89, $218,026,000 for FY 90, and $228,927,000 for FY 91. Additionally, this section allows $1,000,000 to be used for programs authorized under section 417D(f).

Section 118 changes the title of section 417D(a) to "student support services" and includes specific counseling and support services designed to assist veterans as allowable programs. This section describes the allowable activities. Additionally, this section amends section 417D by allowing the Secretary to give priority to outreach programs for low income and first generation college and university students in their junior and senior year to encourage application to graduate school (not including professional school).

Section 119 amends section 417F of the law by expanding the allowable outreach and staff development activities to include programs for the training of staff and leadership personnel.

SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK

Section 120 of the bill extends the authorization of the Special Programs for Students Whose Families Are Engaged in Migrant and Seasonal Farmwork through 1991 and sets the authorization level at $7,875,000 for FY 87, $8,269,000 for FY 88, $8,682,000 for FY 89, $9,116,000 for FY 90, and $9,572,000 for FY 91.

HONORS SCHOLARSHIP PROGRAM

Section 123 of the bill extends the authorization of the Byrd Honors Scholarship Program through 1991.

GUARANTEED STUDENT LOAN PROGRAM

Section 131 of the bill extends the authorization for the Guaranteed Student Loan Program through 1991.

Section 132 of the bill amends section 428(a)(2)(B) of the law by requiring all students to undergo a needs test. The institution must provide to the lender a statement of need, which includes the amount of such need. Additionally, this section clarifies that any loan under the PLUS or ALAS program, or under any State sponsored or private loan program can be used to offset the expected family contribution.

Section 133 of the bill increases the maximum annual loan limits for freshman and sophomores to $3,000, for juniors and seniors to $4,000, and for graduate students to $7,500. The aggregate loan limits have been increased to $18,000 for undergraduates and $55,500 for graduate students.

Section 134 of the bill increases the interest rate for new borrowers to 10%, once the borrower enters repayment.

Section 135 of the bill amends section 427(a)(2) of the law by requiring that the funds disbursed to the institution (by check or by other means) must be payable to the student and require endorsement or other certification by the student.

Section 136 of the bill prohibits an institution from forcing students to use certain lenders when obtaining a guaranteed student loan.

Section 137 of the bill amends section 428(b)(1)(H) of the law by changing the name of "insurance fee" to "administrative fee" and limiting the fee to not more than 3% per loan for the first year of the loan.

Section 138 of the bill allows the lender, at the request of the borrower, to provide a revised repayment schedule which is based on graduated and income sensitive repayments. Additionally, this section allows the lender to round the payments up to the nearest $5 increment.

Section 139 of the bill prohibits each State and nonprofit private institution or organization from offering inducements to any educational institution or its employees in order to secure applicants for loans, from conducting unsolicited mailings including student loan application forms to students enrolled in secondary school, or conducting fraudulent or misleading advertising concerning loan availability.

Section 140 of the bill requires that the Secretary approve any course of study at a foreign university that is accepted for the completion of a recognized international fellowship program by the administrator of such a program.

Section 141 of the bill amends section 428(b)(2) of the law by adding a new clause which provides for the conducting of financial and compliance audits of the guaranty agency at least once every two years or as deemed necessary under chapter 75 of title 31, United States Code.

Section 142 of the bill allows the guaranty agencies to be reimbursed for the administrative costs of supplemental preclaims assistance of up to 2% of the outstanding principal balance of each loan or $100, whichever is less.

Section 143 of the bill amends the rate of reinsurance to the guaranty agencies for default rates from the current 100%-90%-80% to 100%-80%-70%.

Section 144 of the bill amends section 428 of the law by adding a requirement that, in each State, the guaranty agency or an eligible lender shall make loans directly, or through an agreement with an eligible lender in the State, to students who are eligible but otherwise unable to obtain loans under this part.

Section 145 of the bill increases the annual loan limits available under the Auxiliary Loan program to $4,000 for parent borrowers and $4,500 for student borrowers. The aggregate limits have been increased to $20,000 and $22,500 respectively.

Section 146 of the bill amends part B of title IV by adding a new program for loan consolidation. Under this program, students with $5,000 or more in eligible loans (Title IV loans and Health Professional Loans) are eligible to consolidate these loans into one loan with a 10% interest rate (unless an ALAS is included, in which case the higher rate would prevail). Repayment would be extended to 15 years, unless the student has a debt of $30,000 or more ($25,000 of which must be in consolidated loans). Repayment could then be extended to 20 years. After a period of 10 years, the interest rate would go to a fixed rate, based on the preceding year's T-bill rate + 3.25% for the life of the loan. For those students in low paying careers who have high debt burdens, the 10% interest rate could be extended through the life of the loan.

Section 147 amends section 430(b) to include costs of collection efforts in the definition of allowable recovery costs.

Section 148 amends sec. 430 of the law by adding a clause which requires the Secretary, guaranty agency, eligible lender and subsequent holders of loans to enter into agreements with credit bureau organizations to exchange information concerning student borrowers.

Section 149 of the bill amends sec. 432 of the law by giving the Secretary the authority to limit, suspend or terminate a lender from participation in the GSL program if he finds that the lender has not exercised due diligence in the collection of loans, or has engaged in fraudulent or misleading advertising.

Section 150 of the bill further amends sec. 432 by allowing the Secretary to impose civil penalties on any lender or agency which has violated provisions of the law or has misrepresented its financial charges.

Section 151 of the bill amends the definition of eligible lender to include stock savings banks & trust companies. Additionally, this section prohibits lenders from offering points, premiums, payments or other inducements to any educational institution or individual in order to secure applicants for loans; from offering loans as an inducement to a prospective borrower to purchase a policy of insurance or other product; or engage in fraudulent or misleading advertising

Section 152 of the bill amends sec. 435(a) of the law by adding a requirement that, for a foreign medical school to qualify as an eligible institution, they must meet the criteria established by the Secretary. Such criteria may include a requirement that not less than 90 percent of the students who are nationals of the United States enrolled in such school must score in the top quarter on the medical boards, with a pass rate of not less than 50 percent on the Educational Commission for Foreign Medical Graduates examination.

Section 153 of the bill decreases the special allowance paid to the lenders by the federal government to 3.25% (with an exception for holders obtaining loans from tax exempt obligations).

Section 154 of the bill repeals sec. 438(d) of the law.

Section 155 of the bill amends sec. 439(d)(1)(D) of the law by clarifying the activities which can be included under the general authority provision of the Student Loan Marketing Association's authorization. Additionally, this section requires that the Association must advise the Congress at least 30 days prior to the implementation of a program undertaken pursuant to clause (D), the general authority.

Section 156 of the bill requires the Comptroller General to conduct a study of the practices of state guaranty agencies and national guarantors under the GSL program and to prepare a report on their findings to the Congress (relevant Committees) not later than June 30, 1987.

Section 161 of the bill extends the authorization for the College Work Study program through 1991 and sets the authorization levels at $622,125,000 for FY 87, $653,231,000 for FY 88, $685,893,000 for FY 89, $720,187,000 for FY 90, and $756,197,000 for FY 91.

Section 162 of the bill amends sec. 442 of the law to direct the Secretary to allocate the funds appropriated to each institution according to their allocation from the money appropriated for FY 85. Any increases in appropriations from the amount appropriated for FY 85 shall be apportioned to each institution according to the ratio of the number of CWS eligible students in the institution compared with the total number of such students in all institutions of higher education.

Section 163 of the bill amends the CWS program by allowing proprietary participation for on campus jobs only if they relate to the students' educational objectives and do not include positions which involve the solicitation of other potential students.

Section 164 of the bill amends sec. 447(a) of the law by allowing institutions to develop, under the CWS program, community service-learning job location and development programs which benefit low-income individuals and families. The institution may elect to use up to 10%, or $20,000, whichever is less, to expand or establish such a program.

Section 165 of the bill amends sec. 448 of the law by allowing the institutions, in consultation with local nonprofit, governmental and community-based organizations, to develop community service-learning programs for the employment of CWS eligible students. The institution may elect to spend up to 10% of its funds on these programs; the federal share of the compensation shall not exceed 90%.

Section 167 of the bill extends the authorization for the National Direct Student Loan Program through 1991 and sets the authorization levels at $228,356,000 for FY 87, $239,774,000 for FY 88, $251,763,000 for FY 89, $264,351,000 for FY 90, and $227,568,000 for FY 91.

Section 168 of the bill directs the Secretary to allocate the appropriation to each institution according to their allocation from the money appropriated for FY 85. Any increases in appropriations from the amount appropriated for FY 85 shall be apportioned to each institution according to the ratio of the number of eligible students in the institution compared with the total number of such students in all institutions of higher education.

Additionally, this section amends sec. 462 of the law by adding a stipulation that for the award year 1987-1988, no new federal capital contributions will be made to an institution which has a default rate in excess of 20 percent; and for any institution which has a default rate which exceeds 7.5%, the new Federal capital contribution shall be reduced according to the Secretary's regulations. For subsequent award years, no new Federal capital contribution shall be made to an institution which has a default rate in excess of 15%; any institution which has a default rate which exceeds 5%, the new Federal capital contribution shall be reduced according to the Secretary's regulations.

Section 169 of the bill amends sec. 463(a) of the law by providing that where a loan has been in default despite due diligence and the institution has knowingly failed to maintain an acceptable collection record, the Secretary may require the institution to assign the loan to the Department. In the event that the institution has not knowingly failed to maintain an acceptable collection record, the Secretary can allow the institution to transfer or refer the defaulted loan to the department.

Section 170 of the bill requires the the institution give priority for these loans to students with exceptional need.

Section 171 of the bill allows consumer reporting agencies to make reports containing information received from the Secretary regarding the status of a borrowers account up to seven years from the date on which the Secretary accepted an assignment or referral of a loan or from the date in which the Secretary first reported the account to the agency.

Section 172 of the bill amends sec. 463A by adding to the information which shall be given to the student borrower, a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan.

Section 173 of the bill increases the annual loan limits available under this program to $2,000.

Section 174 of the bill provides that the institution may round the monthly payments under this program up to the nearest $5 increment.

Section 175 of the bill provides that the institution, pursuant to regulations by the Secretary, may assess a charge to the student for failure to pay all or part of an installment. The institution may add the charge to the principal or make the charge payable on the next installment.

Section 176 of the bill allows for partial cancellation of a student's debt for service in the Peace Corps or VISTA.

Section 177 of the bill allows the Secretary to attempt to collect on a loan in default by any means authorized by law for collecting claims of the United States. The Secretary shall continue to attempt to collect on these loans until all appropriate collections efforts have been expended.

Section 181 of the bill amends sec. 482 of the law by establishing the guidelines which are to be followed when determining need under the Guaranteed Student Loan program and the Campus Based programs. This section specifies the policies which the Secretary shall follow when evaluating the ability of the family to pay and the eligiblity of the student for assistance under these programs. Additionally, this section describes the basis criteria which must be followed and describes how each shall be considered for dependent students and independents with dependents, as well as for independent students without dependents.

This section also defines independent student. To qualify as a as independent for an award year, the student must not have lived at home with their parents for more than 6 weeks in the year, must not be claimed as a dependent on their parent's income tax, and cannot receive more than $750 from their parents in that year. An unmarried or a student without dependents who has not attained the age of 23, must satisfy the criteria for the award year and the 2 preceding years. All other students must satisfy the criteria for the award year and the preceding year to be considered independent for purposes of the programs under Title IV of the Higher Education Act.

Section 182 of the act requires that the Secretary must submit the schedules of expected family contribution required under section 482 not later than March 1 of the year preceding the year for which the schedule is applicable. Both bodies of the Congress must approve the schedule.

Section 183 of the bill establishes a simplified needs analysis for those families who have adjusted gross incomes of less than $15,000 per year and who are eligible to file federal tax form 1040A. The five elements to be considered are: AGI, Federal and State taxes paid, untaxed income and benefits, the number of family members, and the number of family members in postsecondary education.

Section 184 of the bill provides that in order to assure adequate notification and timely delivery of student aid funds, the Secretary shall adhere to the Master Calendar as included in this section for the development and distribtuion of Federal and multiple data entry forms, allocation of campus-based and Pell Grant funds and the reallotment of any such funds. Additionally, the Secretary must notify both the Senate Committee on Labor and Human Resources and the House of Representatives Committee on Education and Labor of the completion of such calendar and, in the event that a deadline is not met, a report as to why such deadline has not been met and a plan for the completion.

Section 185 of the bill amends sec. 484 of the law by allowing the institutions to use up to 10% of the funds allotted to serve less than half time students under the SEOG, CWS, and NDSL programs.

Section 186 of the bill amends sec. 484 of the law by adding additional requirements for student eligibility in the financial aid programs. First of all, this section requires that a student must be working towards a degree or certificate in order to receive financial aid under this title. Additionally, this section defines satisfactory progress as maintaining a cumulative C average, or its equivalent or academic standing consistent with the requirements for graduation at the instituiton, by the end of the second academic year. Once a student drops below that average, he or she can receive aid once the grade point average is brought back up to a cumulative C. The Secretary of Education through the Office of Education Research and Improvement, shall conduct a study on the impact of this section on the grades of students receiving financial aid under this Title.

Section 187 of this bill further amends the student eligibility section by requiring that, in order to receive aid under this Title, a student must not owe a refund on any grant or be in default on any loan from any institution. Furthermore, a student must file with the institution, a statement of education purposes which includes the student's social security number, or an equivalent identification.

Section 188 of the bill adds a new sec. 484A which allows an instition to file suit for collection of a refund from a student on a grant made or work assistance awarded for at least six years after the date the refund became due; a guaranty agency to file suit for collection on a loan due for at least six years after the date which the agency reimburses the previous holder of the loan for its loss; an institution to file suit for collection on a loan due for at least six years after the date of default; and subject to provisions of the United States Code, the Attorney General to file suit for payment of a refund of a grant in which the refund was due, or the loan was assigned, transferred, or referred to the Secretary. A borrower shall be responsible for reasonable collection costs incurred, and shall not claim infancy as a defense.

Section 189 of the bill provides that, upon the request of the borrower, each lender shall provide a combined repayment plan for all loans eligible for consolidation under sec. 428C of the act and for loans guaranteed under subpart 1 of part C of title VII of the Public Health Services Act which are held by the lender. Such repayment plan shall include one monthly bill to the borrow for the repayment of all such loans.

Section 190 of the bill amends the program participation agreements by requiring that, if an institution advertises job placement rates as a means of attracting students to enroll in the institution, that institution must publish substantiating evidence in the school cataglog

Section 191 of the bill requires that an institution must inform all student borrowers enrolled at the institution about the availability and eligibility of such borrowers for State grant assistance.

Section 192 of the bill extends the Financial Aid and Student Support Services section through 1986.

Section 193 of the bill tightens the program participation agreements between the institution and the Secretary of Education by requiring that the institution use funds received by any program under this title and any interest or other earnings theron solely for the purpose of the program and authorizing the Secretary to audit the institutions at least once every two years.

Section 194 of the bill authorizes a new Advisory Committee on Student Financial Assistance to provide advice and counsel to the Congress and to the Secretary on student financial aid matters. Such Advisory Committee shall be independent of the Secretary and the other offices and officers of the Department. The membership, operations, and functions of the Committee are described in this section.

Title II

CONTINUING POSTSECONDARY EDUCATION AND PLANNING

Section 201 repeals Title I of the Act, Continuing Education Programs.

Section 202 amends Section 215(a) of the law by reauthorizing the National Advisory Council on Continuing Education of five years.

COLLEGE AND RESEARCH LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

Section 211 states the authorizations for appropriations for this Title. Parts A, B, and C are authorized for five years. The total authorization for this Title is 12.35 million dollars for FY 87. Five percent increases occur in the out years.

Section 212 provides need based eligibility criteria for participation in Part A, College Library Resources. Eligible schools receive grants between $2,000 and $10,000 depending on the total enrollment of the college. Grants are made to the neediest institutions first. The application must provide assurances that the school will contribute what it can to library resources and that proper accounting procedures will be utilized. Except in very unusual cases, for which a waiver is provided, an applicant must show that expenditures of the institutions per full time student is less than the average for schools of comparable size. Furthermore, the applicant must show that the number of volumes held is less than the average for a comparble school. Grants received may be used for books, other related library materials, and resources sharing with other institutions.

Section 213 directs the National Commission on Libraries and Information Sciences to conduct a study on the effectiveness of the criteria to be used in Part A of Title II.

Section 214 amends Section 231 of the law to allow the Secretary to permit schools that do not meet the general criteria as research libraries to apply for funds under this part if the school can demonstrate that their collection is nationally or internationally significant for research.

Section 215 repeals the National Periodical File, part D of Title II of the law.

Section 221 amends Title III of the law that provides aid to Developing Institutions. Part A, Strengthening Institutions, makes grants available to junior and four year colleges. Eligible institutions are those schools with at least 50% of their student enrollment receiving Pell Grant or Campus-based assistance. A set-aside of at least 51.4 million dollars is included for junior and community colleges. Grants are available under this part for 1–3 years or for 4 or 5 years. Four and five year grants require an equivalent wait out period once the grant expires before the recipient can reapply under this part. Part B provides grant aid for strenthening historically black colleges and universities. Funds for Part B are distributed according to an allotment formula that considers the number of Pell Grant recipients on campus and the number of degrees awarded to students. Applications must be completed by Part B eligible schools in order to receive the annual allotment. Five graduate and professional schools that serve a high percentage of minority students are eligible for grants under this part that are not to exceed $500,000 and are for five years duration, renewable one time. Part C reauthorizes the Endowment Challenge Grant program. It provides for a two to one match for grants to schools which are able to raise a minimum of $500,000 toward their endowment. Smaller grants are matched on a one to one basis. The two to one match provision only takes effect if appropriations for Part C reach 10 million dollars. Authorizations for Title III total 165 million dollars for FY 87. 5% increases are provided in years 88–91. When appropriations for Part A exceed the FY 86 level, priority may be given to applications from eligible institutions with significant minority representation.

TEACHER TRAINING AND DEVELOPMENT

Section 231 repeals part B Title V of the law, Teacher Training Programs.

Section 232 repeals part C of Title V of the law, Training for Teachers of the Handicapped.

Section 233 repeals part D of Title V of the law, Coordination and Continuing Professional Development.

Section 234 reauthorizes Section 561(b) of the law, the Carl D. Perkins Scholarship program for five years. $10.5 million is authorized to be appropriated in FY 87. This figure increases by 5% in FY 88–FY 91.

Section 235 renames the Talented Teacher Fellowship Program to honor Christa McAuliffe.

Section 236 authorizes a $5.25 million dollar appropriation in FY 87 for the Christa McAuliffe Talented Teacher Program, increasing by 5% in each of the out years.

INTERNATIONAL EDUCATION

Section 241 amends the findings and purposes of Title VI in order to make them more direct and forceful.

Section 242 separates the graduate and undergraduate language and area centers to ensure that undergraduate center designations are based on excellence, not on whether or not a particular institution already has a graduate center. This change is also designed to reinforce the Congressional intent embodied in Section 247 that in selecting center grants, the Secretary shall employ separate but no less rigorous criteria for undergraduate and graduate centers.

Section 242 also establishes a two tiered system of stipends which replace the existing FLAS Fellowship program. The first tier of stipends are for individuals undergoing advanced competency-based language training at graduate resource centers. The second tier of stipends are for a limited number of highly advanced students selected on the basis of exceptional qualifications in a national competition. The second tier of stipends are available to students beginning their third year of graduate training and may be held for up to four years (contingent upon the periodic demonstration of a high level of language proficiency). The second tier of stipends may also be used for study at the graduate center and for research and advanced language study abroad.

Section 243 establishes the language pedagogy centers. The activities carried out by these centers may include research on new and improved teaching methods, the development of new teaching materials, the development and application of standardized proficiency testing, the publication of instrumental materials in the less-commonly taught languages, and the widespread dissemination of research results, teaching materials, and improved pedagogical strategies.

Section 244 strikes the reference to "comprehensive programs" in order to clarify that a program need not encompass *both* foreign language training and international studies to be eligible for grants under this section.

Section 245 establishes intensive summer language institutes designed to provide intensive language training for advanced students and professional development and improved instructional training for language teachers. The training provided at these institutes will focus on the critical and neglected languages.

Section 246 strikes the current law reference to part N of Title III of the Elementary and Secondary Education Act which was repealed by the Omnibus Reconciliation Act of 1981.

Section 247 helps to ensure that the Secretary awards the center grants based on excellence, employing separate but equally rigorous criteria for undergraduate and graduate programs. Section 247 also requires an equitable distribution of funds throughout the nation, where practicable, except in consideration of Sec. 602 programs where excellence is the sole criteria.

Section 248 authorizes a $35 million appropriation for part A in FY 87, with a five percent annual increase in succeeding years.

Section 249 authorizes an appropriation for part B, Business and International Education Programs, of 2.2 million dollars for FY 87, with a 5% annual increase in succeeding years.

Section 250 reduces the unwieldy size of the advisory board, gives pre-eminence to members from the higher education community, and gives the board a role in recommending adequate budget levels for the programs within its jurisdiction.

Section 251 amends section 702 of the law to authorize appropriations for part A, grants to graduate institutions; part B, Grants to undergraduate institutions; and part C, Construction Loans and Interest Subsidy Grants. Appropriations for these parts equal $64.47 million for FY87, increasing by 5% for each part in succeeding years.

Section 252 amends Section 732(5)(B) of the law to extend the authorization period for granting a borrower the option of early repayment at a computed discount. The discounted amount is computed by the Secretary in consultation with the Secretary of the Treasury.

Section 253 amends Title VII of the law by adding a new part D, Housing and Other Educational Facilities Loans. This part makes loans available to undergraduate postsecondary institutions for construction and renovation of housing and other academic facilities. Loans must be secured and repaid within forty years. The interest rate is set at 5.5%. Funds from Title IV of the Housing Act of 1950 are available to carry out this new part. The Secretary is required to make loans available annually that total 10% of the volume held in the revolving fund. No state can receive more than 12.5% of the loans allowed each fiscal year. Once a specific institution receives a loan, that institution is prohibited from further borrowing for at least ten years. Special priority is given to renovation loans.

COOPERATIVE EDUCATION

Section 261 amends Title VIII of the law, the Cooperative Education program.

Section 261 amends Section 801 of current law to do the following:

> States the authorizations of appropriations for the Title. A minimum of 75 percent of appropriations for grants to institutions. It limits funding for demonstration projects to 13 percent of appropriations; training and resource centers, 10 percent; and research, 2 percent.
>
> This section authorizes to be appropriated $15.12 million for FY 87, $15.876 million for FY 88, $16.67 million for FY 89, $17.5 million for FY 90, and $18.38 million for FY 91.

Section 261 amends Section 802 of current law to do the following:

> Authorizes the Secretary to make grants to institutions of higher education. Describes the application process for institu-

tions desiring to receive grants. Requires such applications to: (1) describe the program or activities; (2) specify the portion of the program or activity to be performed by a nonprofit entity other than the applicant; (3) assure the applicant will spend for any fiscal year at least as much as in the preceeding fiscal year; and (4) describe plans for the applicant to continue the program beyond the final year of Federal assistance. Limits the size of grants to $500,000 per institution, or $350,000 per institution when participating with other institutions receiving a single grant. Limits the duration of grants to an institution to no more than 5 years. Limits the Federal share to 90 percent in the first year of a grant to an institution, decreasing amounts in the following 4 years. Allows any institution, or participant in a combination of institutions, to apply for program grants if: (1) at least 2 years have elapsed since the end of the 5-year period of previous Federal support; (2) cooperative education programs have been supported from non-Federal sources at an expenditure level year of at least as much as in the fifth year of previous Federal assistance; and (3) statistics are provided for each intervening year on the number of participating students. Requires the Secretary to give special consideration to applications from institutions with the greatest promise of success because of: (1) the extent to which the programs have had a favorable reception by employers; (2) the commitment of the institution to the continuation of programs after the termination of Federal support; (3) the commitment of the institution to extending cooperative education programs throughout the institution; and (4) other factors consistent with the purposes of this Section.

Section 261 amends Section 803 of Title VIII of the law to do the following:

Authorizes the Secretary to make grants and enter into contracts with institutions of higher education, or combinations of such institutions, and other agencies or organizations that might make an especially significant contribution toward the objectives of this section, for the conduct of demonstration projects; training and resource centers designed to train personnel, improve materials, furnish technical assistance, and encourage model programs; and research relating to cooperative education.

GRADUATE AND PROFESSIONAL PROGRAMS

Section 271 repeals part A of Title IX of the law, providing institutional support to improve graduate education programs.

Section 272 stipulates that the cost of education payment to an institution for each graduate student is increased from $3900 to $4200 and the stipend to the student increases to a maximum of $7000, or financial need.

Section 273 amends the graduate program by allowing individual graduate school departments to apply for grants under this part rather than limiting such applications to the entire college or university.

Section 274 authorizes an appropriations for part B in FY 87 of 18.48 million dollars, increasing by 5% in the succeeding years.

Section 275 authorizes appropriations for part C, the National Graduate Fellows Programs for five years. In FY 87 265 million dollars are authorized for this part, increasing by 5% in the FY 88–FY 91. Furthermore, it renames the recipients of awards under this part Jacob J. Javits Fellows.

Section 276 amends Section 953 of the law, Training in the Legal Profession, to extend the authorization of appropriations for the next five years. 1.575 million dollars are authorized for this part in FY 87, increasing by 5% in each succeeding year.

Section 277 authorizes appropriations for Section 942 of the law, Law School Clinical Experience Programs, for the next five years. 1.575 million dollars are authorized for this part in FY 87, increasing by 5% in each succeeding year.

THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

Section 281 authorizes appropriations for Title X of the law for five years. In FY 87 this program is authorized at 13.35 million dollars, increasing by 5% in each succeeding year.

Section 282 describes a new part in FIPSE, Innovative Projects for Community Services and Student Financial Independence. It is the purpose of this part to encourage student participation in community service programs in exchange for educational services. Grants are made available to colleges interested in establishing community service projects for student participation. This part is authorized at 3.6 million dollars in FY 87, increasing by 5% each year in FY 88–FY 91. No funds are to be appropriated for this part unless part A is funded as well.

Section 283 reauthorizes the Minority Science Institutions Improvement Program through FY 91. This program provides grants to colleges with majority minority enrollments to strengthen their science programs. There are authorized to be appropriated 3 million dollars for FY 87, with a 5% increase in each succeeding year.

URBAN UNIVERSITIES

Section 286 repeals the Urban University Title.

Section 291 reauthorizes the Territorial Student Assistance Treatment Program for five years, beginning in FY 87.

Section 292 reauthorizes the National Advisory Committee on Accreditation and Institutional Eligibility for five years, beginning in FY 87.

Section 293 amends the law to create a Commission to Study the Postsecondary Institutional and Programmatic Recognition Process. Members will be appointed by the Congress according to eligibility criteria detailed in the legislation. The Commission is directed to conduct a thorough study of the process used by the Department of Education to determine institutional or programmatic eligibility for participation in federal student assistance programs. The Commission will also study the role of nationally recognized accrediting bodies in assessing the quality of instructional offerings on member campuses. The study will be of nine months duration and will receive a $1 million dollar appropriation.

Section 294 amends Title XII of the law to require institutions which receive a gift worth more than $100,000 to report the source of that gift and the specific amount given to the Secretary of Education within 90 days. Failure to disclose such information may result in court action.

Title III

Section 301 Section 301 of the bill amends Section 405 of the General Education Provisions Act, relating to educational research and improvement activities carried out by the Department. The section by section description of Section 405 of GEPA as amended follows:

Section 405 (a) this section sets forth the policy of the federal government with respect to federal educational research.

Section 405 (b) this section outlines the organizational structure and purposes of OERI and identifies the priority research and development needs to be addressed by the Office.

This section specifies that OERI shall be administered by the Assistant Secretary for Educational Research and Improvement which includes: the National Advisory Council on Educational Reserch and Improvement, the Center for Statistics, and other units considered appropriate by the Secretary.

Section 405 (c) This section specifies the number of members of the National Advisory Council on Reserch and Improvement appointed by the Secretary, the terms of office of the appointed members and the functions and procedures of the Council.

Section 405 (d) This section lists the activities of the office. The Secretary may carry out the activities directly, or through grants contracts or cooperative arrangements, and shall establish a procedure for peer review in awarding contracts.

The Secretary shall support (a) labs (b) centers (c) meritorious unsolicited proposals (d) proposals invited by the Secretary, which meet the purposes and priorities of the Office. The regionally representative governing board shall determine a regional agenda.

Section 405 (e) this section directs the Secretary to carry out by grant or cooperative agreement with a non-profit educational organization, a National Assessment of Educational Progress.

Section 405 (f) this section authorizes to be appropriated for carrying out the research and improvement functions, other than that of the regional labs, $53,231,000 in FY 87 and such sums through FY 91. For regional labs there are authorized to be appropriated $19M for FY 87 and such sums through FY91.

This section also specifies that not less than 90% of the funds for any fiscal year shall be expended to carry out section 405. This section further directs the Secretary to maintain the same level of funding for NAEP, the Center for Statistics and ERIC at the same level of funding provided for operations in fiscal year 1986 for each fiscal year in which appropriated funds are equal or exceed the amount of funds appropriated in fiscal year 1986.

CENTER FOR STATISTICS

Section 302 Section 302 makes several amendments to section 406 of GEPA regarding the Center for Statistics as follows:

Section 302 (a) makes conforming amendments to reflect the new name.

Section 302 (b) makes conforming amendments.

Section 302 (c) adds to the functions the analysis of statistics and data.

Section 302 (d) makes conforming amendments.

Section 302 (e) directs the Secretary to submit an annual report.

Section 302 (f) makes conforming amendments.

Section 302 (g) requires that the Center collect uniform data from the States on the financing of elementary and secondary education.

PERSONNEL

Section 303 amends the Secretary's excepted hiring authority for OERI by adjusting the salary cap to reflect the maximum current rate of pay for GS-15.

USE OF COUNCIL AND STAFF FACILITIES

Section 304 provides that neither the National Advisory Council nor the Advisory Council on Statistics or any of their members may use Council staff, facilities, equipment, supplies or franking privileges for activities unrelated to the purpose of the respective Council.

V. Committee Views

HIGHER EDUCATION ACT REPORT

Title I—Continuing Postsecondary Education Program and Planning

This Title is repealed with the exception of the National Advisory Council on Postsecondary Education in part B.

The Omnibus Budget Reconciliation Act of 1981 prohibited funds from being appropriated for part A of Title I and restricted appropriations for part B. Consequently, the Title has not received any appropriations for part B. The National Advisory Council has continued under an appropriation authorized by the General Education Provisions Act. It is the Committee's view that the needs of adult learners are more clearly addressed through program changes in Title IV. The revised needs analysis system contained in this reauthorization provides for more equitable treatment of independent students with dependents in determining financial aid, and in the campus-based programs this aid is extended at the discretion of the institution, to less than half-time students.

Historically, community service programs were a component of Title I, and a new community service initiative is included in Title X and a special set-aside for community service is included in the college work-study reauthorization. Over half of today's students in postsecondary institutions would have been described as "non-traditional learners" ten years ago. Today, all colleges and universities must provide services to and consider the needs of older students, part-time students, students who have families of their own and students who work full time. This demographic change supports the claim that Title I has been an important and effective initiative under the Higher Education Act of 1965 and many of the goals it was designed to accomplish have been met.

Title II—College Library Assistance

Title II provides aid to college libraries, research libraries, and funds for training graduate students in the field of library science. For the past three years, no funds have been appropriated for part A, General College Library Aid. The law required that every college receive a grant regardless of need and the grants declined from fiscal year 1977 to fiscal year 1981 when they were so small that they were relatively useless. In addition, the Chairs of the Senate Appropriations Committee during this period insisted on the development of a "needs test" in recognition of the dilution of funds to college libraries under this section of Title II. Thus, the bill authorizes Part A with a needs test to target aid to schools that are most deserving of federal support. A school is deemed eligible for part A funds by assuring the Secretary that:

(1) the expenditures of the institution per full-time equivalent student for library materials is less than the average expenditure for equivalent institutions; and

(2) the number of volumes per full-time students equivalent is less than the average number of volumes held by an equivalent institution.

The grant size is dependent on the number of students who would use the library resources provided. The need criteria is quantitative except in unusual circumstances where a waiver provision can be used by the Secretary.

The National Commission on Libraries and Information Service is directed to conduct a study on the effectiveness of this newly enacted needs criteria specified in part A. A report is to be submitted to the Congress not later than three years after the conclusion of the first year of enactment of these amendments.

Part B, Fellowships for Graduate Study in Library Science is reauthorized without amendment.

Part C, Aid to Research Libraries is reauthorized with an amendment that allows the Secretary of Education to waive the eligibility standards in exceptional circumstances. A college library that has a very unique and a nationally or internationally significant collection for scholarly research is eligible to apply under this part.

Part D, the National Periodical System never received funding and in light of advances in communication technology, is viewed as unnecessary and therefore repealed.

Title III—Aid to Developing Institutions

Title III, Institutional Aid is the largest discretionary grant program in the Higher Education Act, and the only one which provides direct institutional assistance to eligible colleges and universities. Under current law Title III authorizes three separate programs—the Strengthening Institutions Program (part A) and the Special Needs Programs (part B) vary on the basis of statutory eligibility criteria and the duration of grants made under each part. The Endowment Grants Program (part C) provides matching federal grants to assist in building institutional endowments.

A program of *Strengthening Institutions* grants is authorized under part A of current law to improve the academic quality, institutional management, and fiscal stability of eligible institutions in order to make a contribution to the Nation's higher education resources.

A program for *Aid to Institutions with Special Needs* is also authorized under current law whereby an institution eligible for assistance under either part A or B of Title III may apply for additional aid if the institution indicates that it will match the requested challenge grant amount. Under the Challenge Grant Act Amendments of 1983 (P.L. 98-95), 20 percent of Challenge Grant appropriations in FY 1984 was used for matching grants to eligible institutions to assist in endowment building. In FY 1985, a similar percentage of part C funds was used for this purpose.

The Title III provisions of S. 1965, the Higher Education Act Amendments of 1985 will improve program operations and eliminate unnecessary confusion and the over-lap in certain Title III program functions. The bill would:

Establish the Black College and University Act as a new part B, providing a $55 million authorization for FY 1987 for 105 historically black colleges and universities.

Clarify part A eligibility to assure continuing eligibility for all planning grant (one year) and 1-3 year grant recipients. All current law 4-7 year grantees in part A and 1-5 year grantees in part B could only apply for 4-5 year grants. After an equivalent stop out period, schools can reapply for new 4-5 years funding.

Establish a mandatory waiver mechanism for institutional eligibility, and a discretionary waiver for continuing program participation when certain statutory criteria are met;

Require the Secretary to use the most recent and relevant student assistance data in making eligibility determinations, i.e., advancing the base-year one year forward following each annual grant cycle;

Maintain the current law community and junior college set-aside by providing for a floor of $51.3 million in funding which is the sum of current part A and part B funding for those institutions;

Mandate that all administrative provisions affecting eligibility, uses of funds, program activities, etc., be included in regulations which comply with the Administrative Procedures Act and the Higher Education Act in providing for public comment and legislative review;

Merge authorized activities under parts A and B into a new part A to be available to all eligible institutions of higher education that are not eligible to receive funds under part B;

Establish a new maximum grant period for part A of four or five years. If a school receives a part A grant of five years, that school would only be eligible for further aid if that school stayed out of the program for four or five years;

Provide a separate $5 million authorization for five professional and graduate schools;

S. 1965 also provides "pour over" authority for the Secretary in the event that the community college set aside in part A or the full allocation for black colleges in part B is not expended in any given fiscal year. The Secretary would have the authority to award endowment/challenge grants under part C to those same institutions.

Most of these changes will improve institutional access to available funds, assure that the intent of Congress—as expressed in the 1980 Amendments—is carried out, and provide for productive relationships between developed and less well-developed institutions of higher education. The new endowment building program will be continued with several modifications.

Part A, Grants for Strengthening Institutions, is rewritten to make funds available to all schools, except historically black colleges, which were previously eligible under parts A and B of current law. Schools are eligible under this part if at least 50% of their full time equivalent students are recipients of Pell Grants and other campus-based aid. This change in the eligibility requirements is included to provide more equitable consideration for participation in Part A of Title III for schools with low tuition and fees. The Secretary is given the discretion to take into account the level of endowment capital or the expenditure of library materials on an eligible campus, in making final grant award decisions. Currently many more insitutions are in fact eligible for Title III aid than funding can be provided for. These criteria are discretionary considerations that reflect the general financial health of an institution and therefore should assist in the grant awarding process.

The new part B will establish the Black College and University Act. This proposed new part B in the Higher Education Act would authorize a five-year program of capital infusion into each of the Historically Black Colleges to carry out the following activities:

Purchase or lease scientific or laboratory equipment or instructional and research purposes;

Rehabilitation and improvements in classrooms, library or laboratory facilities.

Permit faculty exchanges and programs which assist faculty members to acquire terminal degrees;

Establish new academic programs where Black Americans are unrepresented or underrepresented, i.e. engineering and architecture, pre-medicine and pre-dentistry (biological sciences and chemistry), foreign languages, economics, public administration and advocacy;

Enable the purchase of library books, periodicals, micro-film, etc. to upgrade and maintain current library holdings; and

Pay the excess cost of remediating, tutoring and counseling low-income students.

The Black College and University section would build on the existing rationale for the current part B set aside in Title III and the policy of setting aside $47.5 million for black colleges in the last four years, which has been consistently supported by the administration. This provision was enacted as part of the 1980 Amendments to the Higher Education Act in order to assure the continued participation of the historically black colleges and universities in Title III. Additional changes are required in order to focus available Title III resources on projects and activities that meet the needs of the colleges and that promise, over the long haul to assure the growth and development of these colleges. The continuation of their vital "life-line" function is essential for many Black Americans, who for reasons of poverty and educational disadvantage at the elementary and secondary grades or simple lack of family finances and community support, are unable to enter or successfully pursue a postsecondary education at traditional institutions.

Although Black Americans, in general, are showing substantial gains in their enrollment and participation in higher education—virtually attaining an overall percentage equal to their percentage of the total population--they remain underrepresented as recipients of baccalaureate degrees. While the last three decades have reflected greater access to postsecondary education by minorities, in particular Black Americans, the past ten years show that advances made from the 1960's have, at best, leveled off and, at worst, declinded as Black students make up a larger and larger proportion of the college-aged population, without parallel increases in enrollment and graduation from two and four year programs. More importantly, as was noted in the *Condition of Education,* Black students lag behind in graduate school enrollment (6 percent), professional school enrollment (4.5 percent), and doctorate degrees awarded (3.5 percent). Blacks continue to be underrepresented in many disciplines including engineering, the physical sciences, mathematics, foreign languages, the biological sciences, natural resources and busniess/management.

The new Title III legislation would authorize the first five years of a ten-year program of capital infusion into each of the historically black colleges and universities based on the number of full-time equivalent Pell Grant recipients in attendance at the institution during the school year immediately preceding enactment of the law. The legislation would provide incentives to institutions which retain and graduate students within five years and additional incentives to those institutions whose graduates are admitted to graduate and professional schools in courses of study or academic disciplines in which Black Americans are underrepresented. The legislation would require the existence of an institutional development plan and monitoring and accounting for Federal grant funds. The legislation would also require maintenance of accreditation status and each FTE Pell Grant recipient would be weighted according to the added cost of educating a disadvantaged student at that institution.

The Secretary of Education's Advisory Committee on Black Colleges and Universities and Black Higher Education (which ceased to exist in June 1982) identified 105 historically black colleges and universities that were originially created to educate the freed slaves. Each of these institutions meets the definition contained in Section 322(2), however, both Howard University and the University of the District of Columbia would be excluded under the Special Rule in Section 324(f).

In addition, historically black colleges and universities are undergoing transition—some are enrolling majority white student populations and others are being merged with traditionally white institutions—while retaining their access and equal educational opportunity missions on behalf of Black Americans. The Committee believes that so long as these institutions retain their commitment to expanding the statutory criteria under Part B, they should continue to receive funding.

It is the intent of the Committee to assist historically black colleges and universities for a limited period of time under part B. The new part B program is authorized for five years with an understanding that part B will not be continued any longer than a total of ten years. At that time, if Title III continues to be in existence, the historically black colleges and universities will be eligible for assistance under part A or C on the same basis as all other institutions of higher education.

S. 1965 reauthorizes Part C, the Endowment Challenge Grant Program, with very few modifications to current law. Section 360 is amended to allow grants to be matched on a two to one basis under very special circumstances. When appropriations for Part C exceed $10 million, schools that are able to raise a minimum of $500,000 can apply for the larger match from the federal government. The purpose of this larger match provision is to enable schools that have the potential to become financially independent to receive a large enough infusion of endowment capital from the federal government to "graduate" from this program. Any school receiving a larger grant must wait for ten years before reapplying under this part.

Section 358(c) will establish a priority for Title III institutions with significant student populations made up of minority students, educational disadvantaged students, or those students who come from groups underrepresented in higher education. This new authority will benefit Hispanic institutions, Native American institutions and Pacific Basin institutions which have been under-funded in the grants competition for Part A funds. All institutions must establish eligibility unde Part A criteria and have at least a specified percent of minority student enrollment in order to benefit from the priority consideration authorized. Each of these postsecondary institutions has a different historical mission and role than the historically black colleges and universities, however, they have similar experiences in gaining access to Federal grants—especially Title III.

The Committee also recognizes the need for the flexibility to provide for the enhancement, with Title III of the Higher Education Act of 1965, pertaining to future judicial consent decrees affecting many of our historically black colleges and universities. It is conceivable, if not anticipated, that our historically black colleges and universities will be required not only to upgrade their facilities but also to establish professional schools. If this is to be accomplished successfully, these colleges and universities will need financial assistance from the federal government to carry out their "access mission." The Title III program is the only source of direct institutional assistance to historically black colleges and universities. Therefore, the Committee will review the need for such funds as may be necessary to assist these institutions in their efforts to establish new, innovative and professional programs.

Title IV—Student Financial Aid

PELL GRANTS

Generally considered the foundation of student aid, the Pell Grant Program received a great deal of attention by the Committee in this reauthorization. Since its inclusion in the 1972 amendments, awards have been made to undergraduate students from low-income families to help them finance their education. The annual number of awards has grown from 176,000 recipients in its first year to just under 3 million recipients in the 85–86 school year. In the reauthorization hearings students and parents from around the country testified to the importance of this program.

The maximum grant has been increased in S. 1965 from $2100 to $2400 for FY 87, $2600 for FY 88, $2800 for FY 89, $3000 for FY 90 and $3200 for FY 91. This represents an increase of almost 15% for the first year. The cost of attendance would be limited to 60%. The increase in the maximum grant shows the Committee's commitment to the Pell Grant program and those it is intended to serve—the lower income students.

Another important change included in S. 1965 is the limiting of Pell Grant eligibility to those with incomes of $30,000 or less after subtracting Federal and State income taxes. Because this program was intended to aid the truly needy and lowest income students, the Committee does not expect this change to have a great impact. Estimates from the Congressional Budget Office on the number of applicants affected confirms this; less than 3.5% of current applicants would be affected by this income cap.

The family contribution schedule is included in S. 1965. As specified under general rules, independent students with dependents (not including a spouse) are to be treated as a family unit, and single independents and independents with a spouse only are to be treated in a different manner. The rules and the expected contribution for both groups are included in the bill.

Dependent students will be required to make a $800 "self-help" contribution before being eligible for any federal funds. Independent students would have to contribute $1200. In practice this kind of "self-help" contribution is common in determining student aid. This provision in S. 1965 codifies standard practice while providing for hardship waivers to be determined by the campus financial aid officer.

S. 1965 limits the allowance for room, board, books, supplies, transportation and miscellaneous expenses to $1,800 for students without dependents living at home and $2,400 for all other students. Independent students with children are authorized and are encouraged by the Committee to include the costs of child care as an allowable expense. The Committee also chose to aid lower income parents by allowing the costs of child care to be counted as an educational expense. The action is taken in place of authorizing an entire new program for these so-called "non-traditional" students. By including the cost of child care, the Committee recognizes the economic difficulties faced by lower income parents, particularly single parents in attemting to continue their education.

Child care is also included in the need analysis for the GSL program and Campus-Based programs. The Committee intends all financial aid officers to use this authority whenever and wherever possible.

In addition, it has been brought to the Committee's attention that some students are not allowed to include the tuition paid for elementary and secondary schools as an allowable expense. Once again, the Committee has included this (intentionally) since the money spent on tuition for family members other than the student is a true expense. Therefore, the Committee encourages all financial aid officers to exercise the authority that enables students to include tuition paid for elementary and secondary schools in the Pell Grant program as well as in determining need under section 482.

It has been brought to the Committee's attention that changes in the Pell Grant application after the original application is filled out often result in unnecessarily long delays in the awarding of grants. In an effort to address this problem, the Committee bill makes several changes. Specifically, it allows the financial aid officers to make an award to the student if they have recalculated the processor's determination and either the student's situation has changed or the processor made an error which has resulted in a different award. The financial aid officer must then send the recalculation back to the processor for confirmation. The processor shall then send the confirmation back to the institution which the student is attending. If the student was given an over-award due to the changes made at the institution, the institution will be responsible for the excess. This change is intended to speed up the process and avoid the delays which were described to the Committee during our hearings.

Finally, S. 1965 limits the crediting of a Pell Grant award without approval of the student to tuition and mandatory fees. During our deliberations on S. 1965, it was brought to the Committee's attention that some institutions are crediting the award to the student's account at the campus bookstore and thereby forcing students to purchase books and materials only at the campus bookstore. This was not the intent of the authors of the Pell Grant program. Furthermore, the Committee would encourage students to purchase the required texts and materials wherever they can attain the best price.

STATE STUDENT INCENTIVE GRANT PROGRAM

The State Incentive Grant program (SSIG) is reauthorized in this bill through 1991 with the authorization level frozen at the FY 86 appropriation level.

In response to increased interest from many institutions of higher education to provide community service experiences to students, the Committee unanimously agreed to allow states to use SSIG funds to establish campus-based community service work learning projects. It is the intention of the Committee to encourage states to use a portion of their SSIG funds to develop campus-based community service work learning projects through a 60% federal match/40% state match for these programs. This reflects a 10% increase in the federal commitment for SSIG funds used to provide eligible students with campus based community service experiences.

Additionally, the Committee bill takes notice of the SSIG matching practices of one or more states in which students at certain types of qualified institutions are not permitted to take part in the SSIG program on the same basis as students at other types of institutions. This discrimination was never, and is not, the intent of the Committee in establishing or reauthorizing the SSIG program. Language is therefore included in the Committee bill to require participating states to pay the non-federal share from state or other public sources to prevent such states from continuing this practice, unless otherwise permitted by virtue of a state constitutional provision or state statute enacted prior to October 1, 1978. The Committee notes with approval the development of a Department of Education regulation prohibiting the practice under current law.

Finally, it was brought to the Committee's attention that, while some students attending private institutions are not allowed to participate in the state grant program because of constitutional or statutory prohibitions, those states were still counting these students in their allocation count for SSIG purposes. To correct this inconsistency, S. 1965 provides that only students eligible for state grants will be counted for purposes of federal SSIG allocations.

STUDENT SUPPORT SERVICES

The testimony the Committee received on the Special Services for Disadvantaged Students or TRIO programs was extremely positive and therefore, S. 1965 extends the legislation through 1991, with few changes. The Staff Development Activities (part F) is expanded by including outreach programs for high school counselors and teachers, college admissions personnel and community agency staff, to improve counseling services concerning postsecondary opportunities and financial aid eligibility. The Veterans-Cost-of-Instruction Program is folded into the existing special services subsection (part D), with the increased authorization levels reflecting this addition.

The Committee encourages expansion of the Special Services Program (Student Support Services) in Title IV to include outreach and counseling for juniors and seniors in postsecondary education who are first generation and/or low-income students. The new program's goal is to encourage application to and enrollment in graduate programs for those students who are not aware of the full scope of graduate opportunities. Programs aimed at postsecondary junior and senior students in the proposed expansion of TRIO are not to be at the expense of existing Special Service programs and their current service levels. Growth in TRIO should serve those most in need, and the Committee considers this new outreach program as a supplement to the core mandate of the TRIO programs. The authorization level for FY 87 is $188,000,000 with 5% increases each year thereafter.

SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK PROGRAMS

The Committee is recommending no changes to these programs at this time, but rather extends them through 1991 and changes the authorization figure to reflect a 5% increase from the FY 86 appropriation in FY 87 and each year thereafter.

BYRD HONORS SCHOLARSHIP PROGRAM

Originally authorized in 1984, S. 1965 puts the authorization of the Byrd Honors Scholarship program in line with other Higher Education programs authorized in this bill. No changes are recommended at this time.

GUARANTEED STUDENT LOANS AND AUXILIARY LOANS TO ASSIST STUDENTS

The Guaranteed Student Loan program has been under close review in the past few years, both by members of the Committee and members of the Senate as a whole. Before the Committee began the reauthorization process, a great deal of time was spent debating legislation to save $800 million over 3 years as instructed by PL 99-272, the Consolidated Omnibus Budget Reconciliation Act of 1986. These savings were achieved by enacting administrative changes in the program and the Committee is pleased that PL 99-272 has been signed and enacted. The proposals included in S. 1965 complement these changes and together result in a program with minimal administrative burden.

In our 15 days of hearings on the reauthorization of the Higher Education Act, the guaranteed Student Loan Program was given detailed consideration. There is no doubt that this program is exceedingly popular throughout the country. For the most part, therefore, the changes recommended by the Committee are perfecting changes—important nonetheless to take into consideration the ever changing population at our nation's colleges and universities.

First of all, S. 1965 requires that all applicants undergo a financial needs test to receive a GSL. Under current law, a student from a family under $30,000 is automatically eligible for a loan. By requiring all students to undergo a needs test, the Committee seeks to ensure that students are borrowing according to their need. Concern has been raised about the exceptionally harsh treatment of low income independent students with children when instituting an across-the-board needs test; the Committee responded to this concern by clarifying the treatment of independent students (see needs analysis).

S. 1965 increases the annual loan limits available to students in both the GSL and ALAS program. The GSL limits have been raised to $3000 for freshmen and sophomores; $4000 for juniors and seniors (currently $2500 for all undergraduates) and $7500 for graduate students (currently $5000). This was done in recognition of the fact that although tuition and fees have increased over the last years, the loan limits have remained at the 1972 level for undergraduates and 1976 level for graduate students. While the Committee is concerned about the increasing debt burden some low income students are forced to undertake, the Committee is confident that by requiring all students to undergo a needs test to determine their true need, this debt burden will be kept to a minimum. In addition, the increases in Pell Grant authority and the requirement in PL 99-272 that any student seeking GSL's must first apply for a Pell Grant should help minimize student indebtedness, particularly for students coming from economically disadvantaged backgrounds.

The loan limits under the ALAS program have been increased to $4,000 for parent borrowers and $4,500 for student borrowers (from $3,000 and $2,500 respectively).

Additionally, the Committee notes that the multiple disbursement provisions of PL 99-272 do not apply to the ALAS program. Loans made under ALAS may be made in one disbursement.

The interest rate for new borrowers in the GSL program is increased from 8% to 10%, once the student enters repayment.

GUARANTEE AGENCIES

The Committee amendment also makes several changes which affect the State guarantee agencies and thus the administration of the Guaranteed Student Loan program. First of all, S. 1965 clarifies that no agency or institution can force a student to take out a loan from specific lenders. This is in response to complaints the Committee received from students.

The bill also limits the amount that can be charged as an administrative fee (previously called an insurance fee) to 3% per loan for the first year of the loan only. Under current law, guarantee agencies are authorized to charge a fee that is "not excessive"; the actual fee ranges from ½ of 1% to 1% per year per loan. The Committee is concerned that, over the life of the loan, this fee could well deprive students of money which was intended for their education and not for the administrative purposes of guarantee agencies.

S. 1965 amends the rate of reimbursment of claims paid on defaulted loans to the guarantee agencies (known as reinsurance) from the current 100%-90%-80% to 100%-80%-70% for new loans. While still providing incentives for the agencies to maintain a low default rate (less than 5%) and thus receive 100% reimbursement, this change will encourage enhanced due diligence and an increased emphais on default prevention for those agencies with a higher default rate. The increase in the amount of student loans in default is of great concern to the Committee and this is one of the many steps included to lower the default rate.

S. 1965 also forbids guarantee agencies from offering inducements to students or employees at any educational institution in order to secure applicants for loans under this part. They cannot conduct unsolicited mailings to students enrolled in secondary school of student loan application forms and they cannot conduct fraudulent or misleading advertising concerning loan availability.

While lack of access to student loans is no longer seen as a problem in the Guaranteed Student Loan program, concerns were raised at our hearings about potential problems during unstable and unsure economic times. Therefore, the Committee bill establishes that in each state, either the guarantee agency or an eligible lender will act as a lender of last resort for students who are unable to obtain loans otherwise.

The Committee bill also authorizes the GAO to conduct a study on the practices of state guarantee agencies and multistate Guarantors under the GSL program with a special emphasis on the administrative practices of these entities. The Committee authorized this study because of concerns that the increase in multi-state guarantor activity could result in unintended consequences to the GSL program and its intended beneficiaries.

LENDERS

The special allowance which the federal government pays to the banks to encourage their participation, has been decreased in this bill from the current 3.5% to 3.25%. The Committee does not intend to force any banks out of the program; rather, it is their finding that as the GSL program has grown, the banks have made a significant profit from this program. In the Committee's view, the banks can and should share in the cost saving measures.

In addition, S. 1965 repeals Section 438(d) of the Act. It is the intention of this Committee that all loans made or purchased by the holder with the proceeds from tax exempt obligations, whenever issued, shall be eligible for the special allowance payments specified in Section 438(a)–(c) of the Act as of the effective date of this legislation. Repealed Subsection 438(d) and the regulations promulgated thereunder shall have no residual effect on loans made or purchased with the proceeds of tax exempt obligations issued prior to such effective date.

The Committee bill clarifies that no lenders can offer inducements to institutions or individuals to take out loans or to provide services unrelated to loans, such as insurance policies. The Committee bill also prohibits lenders from using any fraudulent or misleading advertising to attract students. Specific examples of such practices were brought to the Committee's attention during our deliberations. These actions were not intended in the originating legislation, nor are they the intent of this Committee. State guarantee agencies are also forbidden to undertake these actions.

The definition of eligible lender is also clarified in S. 1965 to include stock savings banks and trust companies. While it is our understanding that both of these types of lenders are currently participating in the program, the current definition is unclear and could result in confusion and misinterpretation. In addition, the committee is aware that several bank holding companies participating in the program concentrate their student lending activities in a single wholly owned subsidiary. It has been and continues to be the intent of the Committee that the provisions of section 435(g)(1)(A) not be read to apply to such wholly-owned subsidiaries or to subsidiaries that make and service student loans after selling them to secondary markets which have a participation agreement with the Department of Education. In applying the provisions of this section to any eligible lender, the complete corporate activities of any financial institution should be viewed in their entirety.

DEFAULT PREVENTION

As previously mentioned, student loan defaults are a primary Committee concern. A high default rate can not only ruin the integrity of the program but also and perhaps more importantly, can rob the program of precious federal dollars that could go to students in the form of loans. Therefore, the Committee bill includes a number of provisions to bring down the default rate—provisions intended to encourage all program participants to increase their efforts toward default prevention. Such measures include:

—Allowing for reimbursement to the guarantee agencies for the administrative costs of supplemental preclaims assistance up to a reasonable limit;

—Expanding the definition of recovery costs to include costs of collection efforts;

—Clarifying and expanding the role of credit bureaus in the collection process;

—Allowing the Secretary to limit, suspend or terminate a lender from participation in the GSL program if he finds that the lender has not exercised due diligence in the collection of loans, or has engaged in fraudulent or misleading advertising;

—Allowing the Secretary to impose civil penalities on any lender or agency which has violated provisions of the law or has misrepresented its financial charges;

—Allowing the six year Federal Statute of limitations for filing suit for collection of a loan to apply to guarantee agencies, and postsecondary institutions;

—Tightening up the program participation agreements with the institutions and requiring more regular audits;

—Requiring the institution to notify the students of available State financial grant assistance;

—Requiring any institution which advertises job placement rates in order to attract students, to publish supporting statistics; and

—Requiring the States to share in the cost of defaults (see section on reinsurance for state guarantee agencies).

The Committee believes that these measures, along with those included in the Budget Reconciliation Act of 1986, will substantially reduce default claims.

LOAN CONSOLIDATION/REPAYMENT PLANS

To assist borrowers with large debt burdens, the Committee bill includes a new loan consolidation program. Under this program, borrowers with $5000 or more in GSL, ALAS, NDSL and Health Profession Student Loans (HPSLs) are allowed to consolidate these loans into one loan with a 10% interest rate (unless ALAS is included, in which case the higher rate would prevail). Repayment would be extended to 15 years, unless the student has a debt of $30,000 or more ($25,000 must be in ED loans) in which case the repayment could be extended to 20 years. After a period of 10 years, the interest rate to the student would become fixed, based on the preceding year's T-bill rate + 3.25% for the life of the loan. For those students in low paying careers who have high debt burdens, the 10% interest rate could be extended throughout the life of the loan. While the Committee considered at length what would be a fair "test", it is virtually impossible to predict what an appropriate debt to income ratio would be for a student to become eligible for this special treatment in 10 years. Therefore, the Committee instructs the Secretary to come up with such a test by regulation and to update the test as the changing economy demands.

The bill also requires the lender, at student request, to offer graduated repayment plans, and a combined repayment plan for the consolidated loan and any Health Education Assistance Loans (HEAL) loans which the student may have and the lender holds. The Committee has instituted these changes to encourage responsible repayment of student loans. The Committee also includes a provision to allow monthly student loan repayment amounts to be rounded up to the nearest $5 increment.

State agencies, lenders and the Student Loan Marketing Association are all eligible consolidation loan lenders.

CAMPUS-BASED PROGRAMS

S. 1965 eliminates the state allotment formula in the Supplemental Education Opportunity Grant program (SEOG), the College Work-Study program (CWS) and the National Direct Student Loan program (NDSL). Instead, the funds go directly to the institutions, with a hold harmless at the institution's allotment from the amount appropriated in 1985. Any increase in appropriations over the 1985 level would be distributed according to the percentage of students eligible for that particular program at the institution (i.e. based on student need) in relation to the total number of such students at all institutions. In this way, the Committee hopes to eliminate any unnecessary administrative burden and allocate the money according to the individual institution's needs.

Less than half-time students are eligible for campus based programs if a determination is made at the campus level that the need of the more than half-time students has been met.

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

S. 1965 extends the SEOG program through 1991 with relatively few changes.

Established in 1972 as a supplemental program for those students who without such aid could not attend a postsecondary institution, the Committee believes that the exceptional need provision eliminated in 1980 needs to be reinstated. This places a priority in awarding supplemental grants to students with Pell Grants and who demonstrate exceptional need. With federal aid funds limited, the Committee is concerned that this aid go to students who demonstrate financial need. Therefore, S. 1965 restates this targeting by using language from the 1978 regulations.

The maximum allowable grant is increased from $2,000 to $3,000.

The authorization level for FY 87 is $433,000,000 with 5% increases for each year thereafter.

COLLEGE WORK-STUDY PROGRAM

The CWS program is another one of the financial aid programs which received popular praise throughout the reauthorization process, and therefore, the Committee is recommending its reauthorization with just a few changes.

The Committee believes very strongly in promoting the establishment of institutionally-based community service programs which utilize the largely untapped skills and social commitment of our Nation's college and university students. Accordingly, the Committee has revised the college work-study program to provide a greater financial incentive for institutions to develop community service-learning programs which benefit low-income individuals and families. Under this provision, students would be eligible to receive college work-study wages for such community service.

The Committee intends for these programs to be developed by the institutions themselves, in consultation with local nonprofit, governmental, and community-based organizations, in such fields as health care, child care, literacy training, education, and rural development. The Committee has also directed that to the maximum extent practicable, a student's community service-learning opportunity should complement his or her course of study and vocational goals.

In a related amendment, the Committee has revised the college work-study job location and development program to provide an additional incentive for institutions to develop comprehensive community service-learning programs. Under this amendment, institutions would be able to use the lesser of 10 percent or $20,000 of their college work-study funds to locate and develop community service opportunities in consultation with local governmental and non-profit organizations.

Participation in the CWS program has been expanded to allow students attending proprietary institutions to use CWS on campus if the job relates to the students' educational objectives, does not include jobs that involve the solicitation of potential students and where no currently employed workers would be replaced by federally subsidized students. The intent of the Committee by making this change is to benefit the student and increase the educational opportunities available to them. The Committee wishes to stress the provision in current law which forbids any institution—public, private, or proprietary—from using this program to replace a current paid employee with a CWS student.

Finally, the Committee would like to note that, in 1914, Blackburn College in Carlinville, Illinois instituted a campus work-study program which requires each student to work a specific number of hours each week to pay for the cost of their education and to keep the cost of attending Blackburn College within the easy reach of moderate income families. That work program continues today, requiring each student to work 15 hours per week in on-campus, nonpaying positions. Students literally run the College's physical plant, many staff officers and other service areas on campus.

Blackburn College is not alone in operating this innovative type of "work-study" program. Berea College and Alice Lloyd College in Kentucky, Warren Wilson College in North Carolina, the School of the Ozarks in Missouri, Berry College in Georgia, Bluffton College in Ohio, LeMoyne-Owen College in Tennessee, Tuskegee University in Alabama, and Oakwood College in Alabama all operate similar programs. All except Blackburn use College Work-Study funds to pay their students who work on behalf of their institution. A provision in the current law states that ". . . such work (for the institution itself)—will not result in the displacement of employed workers or impair existing contracts for services."

With the exception of union labor questions and instances involving construction, painting, etc., the Committee is not aware of circumstances in which the application of Section 443(b)(1)(A) has been a problem. The Committee wishes to encourage the type of work program established and pioneered at Blackburn, as well as, those operative at the other "work colleges" mentioned earlier. The Committee believes that each of the other college or university programs is in compliance with Section 443(b)(1)(A) and we urge the Department to facilitate Blackburn College's full access to the College Work Study program, consistent with the authorization of its Board of Trustees and the availability of appropriations.

NATIONAL DIRECT STUDENT LOANS

In existence since 1958, the NDSL program is the oldest Higher Education program; its unique financing and repayment scheme (the principal and interest are repaid to the institution into a revolving fund from which future loans are made) make it an important part of the financial aid package available at the campus. The Committee extended the authorization through 1991 with few changes.

First of all, S. 1965 requires that a NDSL recipient have exceptional financial need. While Congress has consistently intended that the NDSL program be need-based, the Committee has included the exceptional financial need clause to emphasize that loans under this program go to students demonstrating the greatest financial need. Furthermore, the Committee bill increases the annual loan limits to $2,000 from the current $1,500. This change, together with the targeting of the NDSL program, demonstrates this Committee's commitment to assist students with greatest demonstrated need.

S. 1965 also allows for cancellation of a percentage of a NDSL debt for those students who enter national service as Peace Corps or VISTA volunteers.

Additional changes in the NDSL program include default prevention and collection improvements, such as:

—Tightening of the institutional agreements with the Department of Education for the assignment and referral of NDSL's;

—Tightening the agreements between institutions and borrowers regarding timely payments or monthly installments; and

—Clarifying and expanding the rights of the Secretary for collections of DNSL's in default.

—Changing the triggers for federal capital contributions under the program to go into effect for the 87–88 school year.

NEEDS ANALYSIS

Part E of S. 1965 establishes the guidelines for the needs analysis system for the Guaranteed Student Loan program and for the campus based programs. In developing such a system, the Committee was faced with a dichotomy. On the one hand, we wanted to insure that the programs were not subject to regulatory changes that would substantially alter Congressional intent. On the other hand, the Committee is aware of the difficulties of making necessary and timely changes through the legislative process. The committee sought, therefore, to devise a mechanism which would clearly specify Congressional intent on the major elements of needs analysis without involving the Congress in the day-to-day operation of the programs. Thus the Committee chose to include the guidelines and establish an advisory committee for one year to perform the vital service of developing the specific elements and annual updates.

The Committee bill describes the policies and criteria which shall be followed in preparing the expected family contribution under this subpart and includes a timetable for development of these schedules and delivery of student aid. These policies are very similar to the current departmental regulations, with some modifications.

The definition of independent student for all financial aid programs has been amended to require that unmarried students and students without dependents under 23 years of age must satisfy the established criteria for the award year plus the two previous years. The criteria state that the student:

—Does not live for more than 6 weeks a year with his/her parents,

—Is not claimed as a dependent for Federal income tax purposes by his/her parents, and

—Does not receive more than $750 in financial assistance from his/her parents.

Students who are 23 and above, or married students with dependence fall under the current rule of satisfying the criteria for the award year plus one previous year.

As was described in the Pell Grant program, dependent students are expected to contribute $800 up front before being eligible for any student financial aid; independent students would be required to contribute $1200. This provision codifies standard practice while providing for hardship waivers to be determined by the campus financial aid administrator.

In addition, the Committee authorizes the Secretary to use a simplified needs test, consisting of five elements, for those applicants with Adjusted Gross Income of $15,000 and who also file a Federal tax form 1040A or 1040EZ. During the reauthorization process, it was brought to the Committee's attention that, for those with lower incomes, the regular needs analysis system was very complicated and often times discouraged potential students from applying for the federal loan programs. As the tax laws become more and more complicated, and more time and energy is spent sheltering income, the Committee is aware that applicants with higher incomes could benefit from this simplified test. Therefore, the use of this test is limited to only those applicants without assets or hidden income of any kind.

The Committee also intends that the use of the short GSL needs test, referred to as the look-up charts be discontinued. All students applying for student assistance should be measured using the same criteria. The look-up forms did not take into account student and family assets which the Committee believes is a very important ingredient in assessing the expected family contribution and therefore accurate student need.

FOREIGN MEDICAL SCHOOLS

Under current law, "offshore" medical schools (excluding Hawaii and Puerto Rico) are deemed eligible by the Department of Education for student participation in the Guaranteed Student Loan Program if the school is accredited in the country where it is located. Accredited in this context means that the school is recognized as a medical college in that country and students graduating from the school are eligible for medical licenses to practice in that country. Since 1980, the number of American students attending offshore medical schools has increased from 11,000 to 19,000. In FY 85 $9.3 million in Guaranteed Student Loans were made to these students. The number of profit-making medical schools in foreign countries has grown as it has become more difficult for American students to attend accredited medical schools in the United States. A predicted glut of licensed physicians by 1990 will undoubtedly serve to aggravate this situation.

A recent survey conducted by the Educational Commission for Foreign Medical Graduates show that nearly 55% of American students graduating from "offshore" schools never applied to American medical colleges.

Foreign medical schools can be placed in two distinct categories. One class of schools primarily serves the needs of their own citizens and admits a limited number of American students. The second, and significantly larger category, have student bodies made up primarily of Americans. It is the later category of schools, where over 75% of American students are in attendance, that is of concern to the Committee. Proprietary "offshore" medical schools are not required to meet the same standards as American medical colleges, and with very few exceptions, lack the clinical training facilityies necessary to do so.

Section 435(a)(1) of current law states that foreign medical schools eligible for GSLs must offer an educational program comparable to such programs offered in American medical colleges. S. 1965 amends Sec. 435(a) by requiring the Department of Education to promulgate regulations to enforce this provision of law. Furthermore, it recommends that criteria developed by the Department include a requirement that at least 90% of the United States nationals enrolled in a given "offshore" medical school score in the top 25% on the medical boards, with a pass rate of not less than 50% on the Educational Commission for Foreign Medical Graduates Examination.

SATISFACTORY PROGRESS

The Committee is concerned also that student aid go only to those students who are serious about their academic work, and are completing and passing the courses in which they are enrolled. Accordingly, the Committee has included language in S. 1965 that, for the most part, mirrors the satisfactory progress language now in regulations. Specifically, the Committee specifies that a student in order to continue to be eligible for federal student aid must maintain a cumulative "C" average, or its equivalent, or academic standing consistent with the requirements for graduation of the institution in which the student is enrolled. It is the Committee's intent that this provision shall be in force (take effect) at the end of the second academic year, at which time the student will be denied further federal student aid until the student can regain an average consistent with the provisions of the Committee bill.

Title V—Teacher Training and Development

The two programs reauthorized in this bill under Title V, the Carl D. Perkins Scholarship Program and the National Talented Teacher Fellowship Program, are recent amendments to the Higher Education Act of 1965. All other programs under this title have now been repealed, either because funding was never provided or has not been provided for a number of years. The Perkins Program and the Talented Teacher Program are examples of federal efforts to encourage academically able students to select a career in teaching. The centerpiece of this reauthorization—Title IV, Student Financial Aid—is available to all students, regardless of their chosen course of study. The repeal of most programs under Title V reflects the committee view that general aid is the most effective way for the federal government to support postsecondary education for all eligible students, including those intending to enter the teaching profession.

The Talented Teacher Fellowship Program is renamed to honor Christa McAuliffe, the first teacher-citizen selected by NASA to travel on the space shuttle. Members of the Committee supported this change as a fitting memorial to an individual whose enthusiasm and talent as a teacher served as an inspiration to the entire nation.

Title VI—International Education Programs

Title VI, International Education, provides institutional support to assist in the development of resources and trained personnel for international study, international research, and foreign language study. Important changes are made in the programs authorized under this part and new areas of emphasis are included. The Committee recognizes the need to expand opportunities for international study and improve instructional techniques, especially in the less commonly taught foreign languages.

Under Title VI, the Department of Education funds both comprehensive and undergraduate foreign language and area studies centers. Comprehensive centers are located at major universities and offer both undergraduate and graduate level courses. In the past, in spite of the fact that many four-year colleges have excellent faculty and institutional resources in this area, they have not been successful in center competitions. The criteria used by the Department of Education in the selection of undergraduate center recipients favors those institutions with large enrollments, strong periodical collections, and a long history of private and public financial support for foreign language study.

The Committee believes there is a need to broaden access to courses sponsored by Title VI funding. Amendments to Section 602 would provide four year institutions a better opportunity to compete for center funding under Title VI by requiring the Department to consider comprehensive and undergraduate applications separately. By developing separate criteria it is the Committee's intent to give exemplary programs on undergraduate campuses new consideration for funding under this part.

A two-tiered system of stipends has been included to replace the existing Foreign Language and Area Studies Fellowship Program (FLAS). This would allow advanced students with exceptional ability to receive federal support beginning in their third year of study and continuing for up to four years. Recipients would be chosen through a national competition.

Research and dissemination activities aimed at improving technical expertise in the area of language instruction would be funded through language pedagogy centers. Summer institutes are also established which would provide intensive training for teachers of foreign languages at all academic levels. These institutes focus on areas of critical need and languages that have been neglected in the past.

The Committee has proposed two different procedures for the allocation of funds under Title VI. For Section 602(a) the sole procedure for awarding grants shall be an open national competition judged by a peer review process on the basis of criteria of excellence. For all other Title VI programs, it may be appropriate, consistent with peer review judgments of quality, to give consideration to geographic distribution of awards.

The Committee wishes to call particular attention to the Arctic Region. Recent developments in military technology (for example, enhanced submarine launched ballistic missiles, long-range cruise missiles, advanced radars) are transforming this region into one of the world's most active and important theaters for military operations. The Arctic is also a storehouse for massive deposits of natural resources. Already, about 9% of the oil produced in the United States comes from the Arctic. The exploitation of these resources raises profound questions regarding the proper role of government in the supply of energy, the rights of natives peoples, and the protection of sensitive northern ecosystems. Given the newly emerging significance of the Arctic, the Committee recommends creation of a center for Northern Studies for Areas within the Arctic Circle. There is a national need to develop a group of broadly trained experts who understand Arctic military, political, socioeconomic, and cultural issues and who can provide solutions to the policy problems facing the United States in this region. It should be possible for the Department, as a matter of administrative initiative, to establish a center at an existing institution or institutions dedicated to the study of the circumpolar north.

Title VII—Construction and Renovation

Title VII provides grant and loan assistance to higher education institutions for the construction, reconstruction and renovation of academic facilities. In the case of loan support, all participating institutions must provide at least 20% of the cost of financing construction projects (except Title III Developing Institutions) and the schools must demonstrate an inability to secure an adequate loan with comparable terms from other sources. In recent years very few loans have been awarded under this part. Similarly, it has been a number of years since interest subsidy grants were awarded under this part. The outstanding loan volume for the academic facilities loan fund is approximately 300 million dollars for FY 86. Total income to the fund in FY 86 is estimated at $35.3 million. An annual appropriation is requested to make up the difference between outstanding obligations and income to the fund.

The Graduate and Undergraduate Facilities Grant Programs have also been severely restricted in recent years. Rather than open competition for grant awards, most money distributed by the Department under this part has been earmarked for specific institutions which were able to have the necessary legislation enacted by the Congress.

Throughout the hearings on the Reauthorization of the Higher Education Act, witnesses spoke about the importance of making capital available to colleges and universities around the country to repair, renovate, and construct academic facilities. Estimates of between 50 and 90 billion dollars were cited as the current need nationwide for new building, repairing infrastructure, and providing modern instrumentation.

While the Committee is deeply concerned about the deterioration of the facilities on college campuses and the future impact on our economy if research and training facilities are not updated, the options are limited. S. 1965 does reauthorize parts A and B, Facilities Grants, at 20 million dollars. Part C, the Academic Facilities Loan Fund, is reauthorized to meet outstanding obligations. The new initiative the Committee has included is an amended version of Title IV of the Housing Act of 1950, College Housing Loans. The Senate Banking, Housing, and Urban Affairs Committee agreed to delete the College Housing Loan Program from the Housing Act. It is incorporated in S. 1965 as Title VII, entitled, Housing and Other Educational Facilities Loans. This program is to be administered and appropriated through the Department of Education. The priorities for which loans secured under this part can be used have been expanded to include construction and renovation of undergraduate academic facilities with certain limitations. Interest on loans is increased to 5.5%. The Committee is fully aware that this program will not solve the construction financing crisis facing many institutions of higher education. State, local and private resources will have to be tapped as well. Redirecting the uses of funds previously appropriated for housing construction and making the fund itself more self-supporting are responsible changes that will offer some relief. Furthermore, it makes sense to the Committee members that all programs addressing campus construction be administered within one jurisdiction.

S. 1965 extends the time period during which the Department is allowed to discount loans that are at risk of default.

Title VIII—Cooperative Education

Cooperative Education is a cost-effective program whereby college students combine periods of classroom study with periods of off-campus, paid employment in jobs related to their field of study. Federal support is limited to grants to institutions to assist them with the administrative expense of operating a CO-OP Program on their campus. Witnesses at hearings on the reauthorization spoke of the success of CO-OP as presently constructed and suggested very few amendments to current legislation. The four basic grants authorized in current law—administrative, demonstrative, training, and research—are retained with an expansion of the training grant section to include the establishment of resource centers. These resource centers would be created to furnish technical assistance to institutions, improve materials, train personnel, and encourage the development of model programs which furnish education and training in occupations for which there is a national need. To continue and expand successful existing cooperative education programs, institutions that have exhausted their five years of eligibility are allowed to reapply for new CO-OP grant money under certain conditions. The institution must maintain the program at a level equal to the total cost of the program in its fifth year of federal funding. Furthermore, the new grant must be directed at expanding the existing Cooperative Education Program into new curriculum areas. Institutions receiving grants under Title VIII must provide 10% of the funds locally in the first year of the five year funding cycle. This increases by 10% annually throughout the duration of the grant.

Title IX—Graduate Education Programs

Part A of Title IX provided grants to institutions of higher education who had graduate studies programs. The funds were to be used to improve, maintain and strengthen the quality of graduate education. Funds to enact this program were appropriated only once, and no funds have been appropriated since 1980. Thus, Part A is repealed in the bill. Other parts of this title provide grants to institutions to give students stipends for living costs and payments to schools in lieu of tuition charges.

Part B, fellowships for graduate and professional study (G-POP) is reauthorized and the stipends are significantly increased. The cost-of-education payment is also increased and included in the legislation. Previously, this payment appeared only in regulation. The G-POP Program is designed to make graduate study more accessible to minority students and women and, in certain cases, to students interested in public service. Compared to other federally sponsored programs, the stipends and cost of education payments were extremely low, making the program less appealing to graduate schools and students alike. The increases are more likely to cover actual costs and to attract more qualified applicants. The institutional grants are increased so that the more costly stipends will not result in fewer participants in the program. Currently there are 1400 G-POP fellowship and 200 public service fellowship recipients.

Part C, the National Graduate Fellowship Program, is permanently authorized. In this bill the Committee extends the authorization for appropriations and renames recipients the Jacob J. Javits Fellows. This program supports superior scholars in advanced graduate study. It is in the national interest that students with proven academic talent be encouraged to pursue graduate training. These students participated in the GSL and Campus-Based Programs under Title IV as well as the grant programs in Title IX. The cost of undergraduate and graduate training is significant, and without the Title IX programs, many talented students would forego graduate training for fear of incurring too great a debt burden.

Parts D and E, providing assistance for training in the legal professional and clinical experience, have been reauthorized for five years with a 5% increase in appropriations each year.

Title X—Fund for the Improvement of Postsecondary Education

The Fund for the Improvement of Postsecondary Education makes competitive grant money available to colleges and universities interested in innovative research in priority areas, defined by the FIPSE board and The Secretary of Education. Projects funded under this part have enabled participating schools to establish demonstrative and model programs that represent innovative approaches to difficult or emerging issues in higher education. Many projects begin with field initiation, and the Committee has been pleased with this approach.

The problem of student indebtedness was raised by witnesses throughout the hearings on the Reauthorization of the Higher Education Act of 1965. Furthermore, a study was released by the Carnegie Foundation that spoke to the benefits of community service and greater involvement on the part of student recipients of financial aid. To address this concern, a new grant section is authorized in part B of FIPSE to provide grants to colleges interested in pursuing innovative, campus-based community projects in this area. Part B has a separate authorization of 3.6 million dollars. It will receive an appropriation only if part A is funded at the FY 85 level.

The Minority Institutions Science Improvement Program is reauthorized for five years without any changes made to current law.

Title XI—Urban Universities

Title XI, the Urban Grant University Program, of the Higher Education Act was first enacted in 1980. Since that time no appropriation has been made for Title XI. For that reason, the Committee repeals Title XI in S. 1965. The Committee recognizes the importance of urban campuses and the value of cooperative initiatives between schools and local organizations. Title XI was not a successful vehicle for funding such initiatives in the past and, given the increased importance and priority for funding of student financial aid, it seems highly unlikely that the situation will change in the future. The repeal of this title should in no way interfere with projects urban schools have already established without the benefit of federal funding.

The Committee also intends that urban universities, as well as all institutions of higher education, become involved with their communities through the new authorities included in S. 1965 that encourage greater community service work learning experiences. The new authorities in the College Work-Study Program, the State Student Incentive Grant Program and part B of FIPSE will permit urban universities to help meet the needs of their communities by increasing the number of students involved in community-based projects. The Committee fully endorses the concept that all institutions of higher education should contribute to the well-being of their communities and other mechanisms have been provided to encourage colleges and universities to do so.

The Territorial Student Assistance Act is reauthorized for five years. No amendments are made to current law.

The National Advisory Committee on Accreditation and Institutional Eligibility is reauthorized for five years. No amendments are made to current law.

The Committee establishes a Congressional Commission to Study Postsecondary Institutions and the Programmatic Process. One million dollars is authorized for a nine month study into how the Department of Education recognizes accrediting bodies, and, in turn, how the accrediting bodies approve applicant institutions for admission to their associations. The Committee directs the President Pro Tempore of the Senate and the Speaker of the House of Representatives to appoint members to this Commission, who in turn will hire necessary staff. A detailed list of topics to be reviewed by the Commission is included in the legislation. The Committee's intent in establishing this Commission is to gather adequate information to assess the effectiveness of the acrediting process as it exists.

Institutions of higher education receive millions of dollars annually from the federal government through student paid tuition that is federally subsidized. Institutions receive this indirect federal aid because the accrediting process deems them eligible to be certified by the Department of Education. Accreditation status infers to students and to their families that the instruction and training received on a given campus is worth the fees they must pay to attend. Furthermore, throughout the reauthorization hearings, Committee members raised questions about the relationship between accreditation and educational quality. It is important, therefore, that the members of Congress fully understand the intricacies of this process and periodically review its operation.

Section 301 of the bill reauthorizes through FY 91 the research and improvement activities authorized by Section 405 of the General Education Provisions Act (GEPA), reflecting the Secretary's recent reorganization and consolidation of NIE and NCES and the recent reorganization of OERI.

This section clearly delineates the policies of the United States with respect to the goal of providing every person an equal opportunity to receive a high quality education, and of the importance of educational research, data collection and information dissemination in achieving this goal.

The bill establishes the National Advisory Council on Education Research and Improvement, replacing the predecessor National Council on Educational Research. Consistent with the Secretary's reorganization of OERI, the Council is not responsible for establishing policy; instead the Council advises the Secretary on the policies and activities carried out by the new OERI. Fifteen Council members will be appointed by the Secretary as current terms expire. Six ex-officio members will also be included in the Council.

In order to carry out the objectives of the Office, the Secretary shall conduct educational research; collect, disseminate and analyze educational research findings, statistics and other data related to education, and train individuals in educational research. The Secretary may conduct such activities through grants, contracts or cooperative agreements.

It is the Committee's intent that the Secretary establish and employ suitable selection procedures for awarding grants utilizing peer review and consultation. A peer review body should be composed of members who have academic credentials in research and scholarship or professional experience and prominence in the educational research field. The Committee regards the use of peer review as a critical component in the section of research and data collection activities to be funded.

The Secretary is required to continue support for regional educational laboratories and research and development centers. While the Committee provides a specific authorization level for regional labs alone, it is the Committee's view that centers also significantly contribute to our national bank of basic and applied research, and that the Secretary will provide adequate funding for centers.

In addition, this bill provides that a regional educational laboratory board shall determine the regional agenda for its laboratory consistent with the priority research and development needs established under this Section. Because this provision is consistent with current regulations and practices, it in no way alters existing contractual arrangements between the Department of Education and any regional educational laboratory.

This bill directs the Secretary to support meritorious unsolicited proposals for educational research, as well as specific proposals invited by the Secretary. It is the Committee's view that such field-initiated research makes a valuable contribution to the health and vitality of the research field. It is therefore the Committee's intent that the Secretary make available adequate funds to support grants for field-initiated research.

NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

The bill requires OERI to continue support of the National Assessment of Educational Progress with only minor improvements. The primary purpose of NAEP is to assess the performance of children and young adults in the basic skills of reading, mathematics and communication, and other skills.

The bill retains the provision in current law that the appropriateness of all cognitive, background, and attitude items developed as part of the NAEP must be the responsibility of the Assessment Policy Committee and that such items are subject to review by the

Department and the Office of Management and Budget for a single period of not more than 60 days.

There are authorized to be appropriated $53,231,000 in FY 87 and such sums as may be necessary through FY 91 for all activities save that of regional educational laboratories. This bill authorized $19 M in FY 87 and such sums as may be necessary through FY 91 for the regional labs.

This section further directs the Secretary to maintain the level of funding for the National Assessment of Educational Progress, the Center for Statistics and the Educational Resources Information Center at the same level of funding in which appropriated funds are equal or exceed the amount of funds appropriated in FY 86.

CENTER FOR EDUCATION STATISTICS

Section 302 of the bill makes a number of technical amendments to section 406 of GEPA (the National Center for Education Statistics) to improve its operation, eliminate unnecessary provisions, and reflect the Secretary's reorganization of OERI. The National Center for Education Statistics would be renamed the Center for Education Statistics would be headed by a director.

VI. COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 5, 1986.

Hon. ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate of S. 1965, the Higher Education Amendments of 1986, as ordered reported from the Senate Labor and Human Resources Committee on March 19, 1986.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

EDWARD GRAMLICH
(For Rudolph G. Penner).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1965.
2. Bill title: The Higher Education Amendments of 1986.
3. Bill status: As ordered reported from the Senate Labor and Human Resources Committee March 19, 1986.
4. Bill purpose: The primary purpose of this bill is to amend and extend through 1991 the authorizations for appropriation for all programs included in the Higher Education Act of 1965. The bill would also amend and extend the authorization for educational research and improvement programs within the Department of Education. All the programs included in the bill require subsequent appropriations action. The Guaranteed Student Loan program is considered an appropriated entitlement.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
Higher Education Act					
Title I Continuing Postsecondary Education Program and Planning:					
:					
Authorization level					
Estimated outlays					
Title II College and Research Library Assistance and Library Training and Research:					
Authorization level	12	13	14	14	15
Estimated outlays	4	9	13	14	14
Title III Institutional Aid:					
Authorization level	165	173	182	191	201
Estimated outlays	17	161	174	183	192
Title IV Student Assistance:[1]					
Estimated Authorization level	6,121	6,414	6,752	7,419	8,439
Estimated outlays	1,101	5,978	6,382	7,005	8,001
Title V Teacher Corps and Teacher Training Programs:					
Authorization level	−7	−8	−10	18	19
Estimated outlays	−1	−7	−9	−7	17
Title VI International Education Program:					
Authorization level	37	39	41	43	45
Estimated outlays	4	36	39	41	43
Title VII Construction, Reconstruction, and Renovation of Academic Facilities:					
Authorization level	64	68	71	75	78
Estimated outlays	29	48	68	72	75
Title VIII Cooperative Education:					
Authorization level	15	16	17	18	18
Estimated outlays	2	15	16	17	18
Title IX Graduate Programs:					
Authorization level	24	25	27	28	29
Estimated outlays	2	24	26	27	28
Title X Fund for the Improvement of Post-secondary Education:					
Authorization level	20	21	22	23	24
Estimated outlays	2	20	21	22	23
Title XI Urban Grant University Program:					
Authorization level					
Estimated outlays					
Title XII General Provisions:					
Authorization level	3	2	2	2	2
Estimated outlays	1	2	2	2	2
Higher Education Act Total:					
Estimated Authorization level	6,455	6,763	7,117	7,831	8,871
Estimated outlays	1,160	6,286	6,733	7,375	8,415
Educational Research and Improvement:					
Estimated Authorization level	45	47	86	86	91
Estimated outlays	25	39	46	69	83
Bill Total:					
Estimated Authorization level	6,500	6,810	7,166	7,917	8,962
Estimated outlays	1,185	6,325	6,778	7.444	8,498

[1] The Guaranteed Student Loan Program is a direct spending program. The budget authority and outlay estimates for the program are included under title IV and are further detailed in table 2 and table 3.

The costs of this bill fall in Function 500.

Details in the text and tables of this cost estimate may not add to totals because of rounding.

Basis of Estimate

The cost estimate of S. 1965, the Higher Education Amendments of 1986, includes both the new and extended authorization levels for the approximately 40 higher education programs in the bill. For those programs with specific authorization levels in the bill, the cost estimate reflects the stated authorization levels. For those programs authorized at such sums as may be necessary, CBO has estimated the cost of fully funding those programs. Outlays were estimated assuming that the stated or estimated authorization levels are fully appropriated and that the current program spending patterns continue.

The effective date for the authorizations in this bill is October 1, 1986 with the exception of two provisions under the Guaranteed Student Loan (GSL) program relating to lender yields and students' interest rates. These provisions have an effective date of July 1, 1986. The detailed assumptions are stated below.

Titles I, II, III, V, VI, VII, VIII, IX, X, XI, and XII

The authorizations for appropriation for programs for college research library assistance and training, institutional aid, teacher training programs, international education, construction and renovation, cooperative education, graduate and professional programs, postsecondary education improvement, and other miscellaneous provisions are those specifically stated in the bill for 1987 through 1991. The estimates of Title V reflect the reduction from current authorization levels for the Perkins Scholarship program. Title I and Title XI of the Higher Education Act of 1965 have been repealed in S. 1965. Also, Title VII would essentially incorporate the legislative language for college housing loans, a permanently authorized program in the Housing Act of 1950.

Title IV

Title IV, Student Aid, includes over 90 percent of all the federal funds authorized in this bill. The Pell Grant program comprises most of that authorized level. The estimated authorization levels for all Title IV programs are shown in Table 2 below.

TABLE 2.—TITLE IV—STUDENT AID DETAILED AUTHORIZATION LEVELS

[By fiscal years, in millions of dollars]

	1987	1988	1989	1990	1991
Pell Grants	4,569	4,889	5,231	5,545	5,878
Supplemental Opportunity Grants	433	455	478	501	526
State Student Incentive Grants	76	76	76	76	
Student Support Service Programs	188	198	208	218	229
Special Migrant Programs	8	8	9	9	10
Federal Merit Scholarships [1]	0	0	8	8	8
Guaranteed Student Loans [2]	−5	−105	−195	75	675
(Total GSL Program Cost) [3]	(3,214)	(3,070)	(2,934)	(2,583)	(2,310)
Work Study Programs	622	653	686	720	756
National Direct Loans	228	240	252	266	281
General Provisions	1	0	0	0	0
Total estimated authorization level	6,121	6,414	6,752	7,419	8,439

1. Federal Merit Scholarships are currently authorized through 1988 at $8 million annually in Public Law 98-558.

2. The GSL Progam estimates reflect (1) the extension of authorization for loans to new borrowers only as of 1989, and (2) the incremental changes to current program parameters. The details of these estimates are in Table 3.

3. Total GSL Program costs are the total projected GSL Program costs assuming all the costs of prior loans outstanding as well as the cost of all new loans under this bill.

With the exceptions of Pell Grants. GSLs, and the payments to institutions of higher education program, all the program authorization levels in Title IV are stated in the bill for 1987 through 1991. The payments to institutions of higher education are permanently authorized. Detailed discussions on Pell Grants and GSLs follow.

Pell Grants

S. 1965 includes several major changes to the Pell Grant program. It would:

Alter the method for calculating the expected family contribution. For all students, the bill would reduce the calculated discretionary family income by allowing a deduction for state taxes. In addition, the proposed changes would lower the expected family contribution from independent students with dependents (excluding spouses) and would increase the expected family contribution from married students without dependents.

Increase the maximum award. The maximum award would be $2,400 in 1987 and would increase by $200 in each succeeding year.

Institute an allowance for nontuition expenses for all students. In 1987 the allowance would be $1,800 for students living with their parents and $2,400 for all other students. In future years, the nontuition allowances would increase by the same amount as the maximum award.

Revise the current independent student eligibility criteria to require unmarried students under the age of 23 without dependents to prove financial independence from their parents for two prior years, as well as the current year.

CBO estimates the costs of fully funding the Pell Grant program using the CBO Pell Grant simulation model. This model uses detailed data on the income and assets of a sample of Pell Grant applicants in the 1983–1984 school year and adjusts these data to represent students' expected financial status in future years. The model then simulates the amount of aid that students would be eligible to receive and, thereby, estimates the costs of the Pell Grant program.

CBO has estimated S. 1965 using the detailed rules and formulas included in the bill for determining eligibility. However, the bill would provide the Secretary of Education the discretion to use a simplified need analysis for students with family incomes below $15,000. Because this option was not specified in detail, the CBO did not estimate its possible effects.

The CBO estimates that fully funding Pell Grants would cost almost $4.6 billion in 1987, increasing to almost $5.9 billion in 1991. The CBO estimates that approximately 3 million students would receive Pell Grants during the 1987–88 school year; the average award would be $1,500.

Guaranteed Student Loans

S. 1965 would affect the Guaranteed Student Loan (GSL) program in two ways. First, the bill would extend the authority for the federal government to guarantee loans to new borrowers and pay subsides on those loans through 1991. This authority currently expires at the end of 1988. In 1989, about 40 percent of GSL borrowers would be first-time borrowers; by 1991, 80 percent of all borrowers will have been first-time borrowers after 1988. As shown in the table below, the cost of extending the program to these borrowers is $55 million in budget authority and $20 million in outlays in 1989; growing to $1.1 billion in budget authority and $950 million in outlays in 1991.

Secondly, this bill makes several programmatic changes which would affect both current and newly authorized borrowers.

TABLE 3.—GUARANTEED STUDENT LOAN PROVISIONS

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
Extension of program:					
Budget authority			55	420	1,065
Outlays			20	315	950
Changes from the current program:					
Budget authority	-5	-105	-250	-345	-390
Outlays		-80	-225	-320	-360
Total:					
Budget authority	-5	-105	-195	75	675
Outlays		-80	-205	-5	590

The major changes in the bill would:

Limit program eligibility for GSLs to students with assessed financial need. Both income and assets of the family would be included in the assessment. A simplified needs test could be established for students from families with incomes below $15,000. Currently only students from families with incomes in excess of $30,000 are required to show need and that determination is based on the adjusted gross family income only.

Revise the current independent student criteria to require unmarried students under the age of 23 without child dependents to prove financial independence from their parents for two prior years, as well as the current year.

Reduce lender yield on loans by .25 percentage points to a total yield of the 91-day Treasury bill rate plus 3.25 percentage points beginning in July 1986.

Increase the interest rate on GSLs from 8 to 10 percent at the start of the repayment period.

Modify the current loan consolidation provision to increases lender yield by .25 percentage points to a total of the 91-day Treasury bill rate plus 3.25 percentage points and revise the loan terms long-term interest rates for borrowers.

Increase annual borrowing limits for undergraduate students who have completed less than two years of school by $500, for undergraduates who have completed two years of school by $1,500, and for graduate students by $2,500.

Increase loan limits in the auxiliary loan program for parents and independent students by $2,000 for students and $1,000 for parents.

Lower the current reinsurance triggers for the federal share of default claims from 100%/90%/80% to 100%/80%/70% depending on the ratio of a state agency's default claims to their total matured loans.

In 1987, CBO projects that the GSL program would cost $3.2 billion under current law. This level reflects $9.75 billion in new loan commitments to 4.25 million students and a cumulative outstanding loan volume of $52 billion. The estimates were made using the CBO February 1986 economic assumptions.

The combined budget effect of the programmatic changes in S. 1965 from a base that assumes an extension of the current program would have a marginal effect on outlays in 1987. By 1991, the net outlay savings would be $360 million. The savings result primarily from a net reduction in projected loan volume of approximately $700 million in 1987 declining to a net reduction of $500 million by 1991. The reductions in loan volume are due mostly to a more restrictive financial needs test and a more limited definition of a financially independent student. These reductions would be offset by the increases in the annual and cumulative borrowing limits. Program savings also result for lowering the yield to lenders, raising the interest rate to students, and lowering the federal share of default claim payments. These estimates are very sensitive to the interest rates assumed.

Educational Research and Improvement Programs

This bill authorizes funds for the Department of Education programs for research, data collection, and information dissemination. These activities are authorized at stated levels in 1987 and at such sums as may be necessary for the remaining four years. The CBO estimate reflects the stated levels adjusted for inflation in the outyears less the amount currently authorized through 1989.

6. Estimated cost to State and local government: With the exception of the State Student Incentive Grants (SSIGs) the funds authorized by this bill go to postsecondary institutions, financial institutions, and students and would not directly affect the budgets of state and local governments. The SSIGs are grants to states with a matching requirement of 50 percent. They are authorized in S. 1965 at $76 million in each year through 1991, the same level of funding as in recent years. Currently most states provide considerably more funding than is required by the matching rules.

7. Estimate comparison: None.

8. Previous CBO estimate: On November 21, 1985 CBO prepared a revised estimate of H.R. 3700, The Higher Education Amendments of 1985, as ordered reported from the House Education and Labor Committee. H.R. 3700 as ordered reported authorized a total of $7.4 billion in 1987 and an estimated $12.2 billion in 1991. This is $900 million higher than S. 1965 in 1987 and $3.2 billion higher by 1991. In general, S. 1965 would fund higher education programs at lower levels than the House bill. The Senate bill would repeal Titles I and XI and most of Title V authorizing grants to states for continuing education, urban universities and teacher training programs. H.R. 3700 would revise these Titles and establish several new programs. The cost estimates of the Pell Grant and Guaranteed Student Loan programs in H.R. 3700 and S. 1965 are not directly comparable because the cost estimate of S. 1965 was prepared using revised CBO economic assumptions of February 1986

and updated program data through January 1986 whereas H.R. 3700 was completed using the economic and programmatic assumptions consistent with the First Concurrent Resolution on the Budget for 1986. In addition, the cost estimate of the GSL program in S. 1965 reflects the passage of the Consolidated Omnibus Reconciliation Act (COBRA) of 1985. The estimate of H.R. 3700 was completed before the passage of COBRA. Several of the GSL provisions in H.R. 3700 were also contained in COBRA.

9. Estimate prepared by: Maureen McLaughlin (226-2672) prepared the Pell Grant estimates. Deborah Kalcevic (226-2820) and Kenneth Pott (226-2820) prepared the remaining estimates.

10. Estimate approved by: C.G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.

VII. Regulatory Impact Statement

In accordance with paragraph 5(a) of rule XXIX of the Standing Rules of the Senate concerning the regulatory impact of the proposed legislation, the Committee provided the following evaluation of the anticipated additional paperwork and other regulatory impact that would result from the implementation of S. 1965.

S. 1965 extends for five years the postsecondary education programs administered by the Department of Education. For the most part, the Committee anticipates that the regulatory impact of this bill will be minimal. This bill authorizes only a few new programs, and most of the other programs were not significantly changed.

VIII. Changes in Existing Law

In compliance with rule XXVI, paragraph 12 of the Standing Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman);

HIGHER EDUCATION ACT OF 1965

(P.L. 89-329)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Higher Education Act of 1965".

[TITLE I—CONTINUING POSTSECONDARY EDUCATION PROGRAM AND PLANNING

[Part A—Commission on National Development in Postsecondary Education

[Findings

[Sec. 101. The Congress finds—

[(1) that institutions of higher education in our Nation and their human and intellectual resources are critical to the future of the American society, and that the Nation's economic potential, its strength and freedom, and the quality of life for all citizens are tied to the quality and extent of higher education available;

[(2) that it is the responsibility of the Federal Government, consistent with the rights, duties, and privileges of States and institutions of higher education, to promote—

[(A) equality of access to postsecondary education, without regard to age, race, sex, creed, handicap, national origin, geographic location, or economic status;

[(B) freedom of choice to students who wish to participate in postsecondary education, to select institutions and programs which meet their needs and abilities;

[(C) quality of postsecondary education, including the maintenance and extension of academic freedom, responsibility, and educational diversity;

[(D) responsiveness of postsecondary education to rapidly changing social and economic needs; and

[(E) the efficient use of resources in postsecondary education, and the optimal allocation of human, physical and financial resources, through efficient planning and management to achieve these goals; and

[(3) that demographic, economic, and social changes will require institutions of postsecondary education to adapt to the future needs of individuals and of American society.

ESTABLISHMENT OF THE COMMISSION ON NATIONAL DEVELOPMENT IN POSTSECONDARY EDUCATION

[SEC. 102. (a) There is established a Commission to be known as the Commission on National Development in Postsecondary Education to review the effectiveness of policies to promote the Federal responsibilities set forth in clauses (A) through (E) of section 101(2).

[(b) The Commission shall be composed of twenty-five members as follows:

[(1) Nine members shall be appointed by the President of the United States.

[(2) Eight of the members shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader.

[(3) Eight members shall be appointed by the Speaker of the House of Representatives.

[(c)(1) Of each class specified in subsection (b) not more than four members shall be from the same political party, except in the case of the members appointed under clause (1), in which case not more than five members shall be from the same political party. The members of the Commission appointed from private life shall be individuals who by reason of experience or training are especially qualified to serve on the Commission.

[(2) In making appointments under subsection (b) of this section the President, the President pro tempore, and the Speaker of the House of Representatives shall give due consideration to the appointment of individuals who, collectively, will provide appropriate representation of institutions of higher education, State agencies responsible for postsecondary education, labor, the business community, and public service.

[(d) Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

[(e) The Commission shall select a Chairman and a Vice Chairman from among its members.

[(f) Thirteen members of the Commission shall constitute a quorum for the transaction of business, but the Commission may establish a lesser number as a quorum for the purpose of holding hearings, taking testimony, and receiving evidence.

[(g)(1) Members of the Commission who are Members of Congress or officers or employees of the executive branch of the Government shall serve without additional compensation but shall be reimbursed for travel, subsistence and other necessary expenses incurred by them in carrying out the duties of the Commission.

[(2) Members of the Commission not otherwise employed by the Federal Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

[DUTIES OF THE COMMISSION

[Sec. 103. (a) The Commission shall study and investigate the extent to which national policies promote the objectives set forth in clauses (A) through (E) of section 101(2). Such study shall include, but not be limited to, consideration of—

[(1) the extent to which postsecondary educational planning by States and localities and institutions of higher education is designed to identify the future needs of education in American society;

[(2) the effectiveness of Federal financial assistance to students and institutions of higher education in promoting national development of postsecondary education in the most efficient manner;

[(3) the physical and financial capacity of institutions of higher education to carry out their mission, including the conduct of basic and applied research in the humanities and scientific and technical fields, and the relationship between institutions of higher education, public agencies, and the private sector in developing the capacity of higher education to promote such research;

[(4) the human and technical resources currently and prospectively available to institutions of higher education to enable them to address and respond to national and worldwide social and economic forces;

[(5) the effect of demographic changes on institutions of higher education and their constituent disciplines and professions and the ability of such institutions to meet national needs; and

[(6) the extent to which Federal student assistance may be used to promote the recruiting of individuals to serve in the Armed Forces and to retain members of the Armed Forces.

[(b)(1) In addition, the Commission shall conduct a study of the remaining barriers to adult postsecondary education which analyzes the characteristics of current or potential adult postsecondary students, the Federal response to the needs of adult postsecondary students, and the ability of educational institutions to respond to the growing postsecondary student population. For the purpose of the study conducted under this subsection, the term "adult postsecondary student" means individuals twenty-two years of age or older.

[(2) In analyzing the characteristics of current or potential adult postsecondary students and the Federal response to their needs, the Commission shall—

[(A) review the extent to which such students are motivated by employment goals, and whether these students seek further education in order to enter the labor force or reenter after an extended absence, advance in a current career, or move from one career to another;

[(B) analyze the relationship between different employment motivations and sources of financial assistance for education, choice of institution or patterns of participation in postsecondary education;

[(C) evaluate the extent to which the unavailability or inaccessibility of financial aid sources may prevent educational participation by economically or socially disadvantaged adults, or otherwise limit their choice of educational focus or intensity of study; and

[(D) evaluate the extent to which age represents a barrier to participation in postsecondary education and the potential for greater participation in postsecondary education by individuals age 60 and older.

[(3) In analyzing the ability of postsecondary institutions to respond to the potential adult postsecondary student population, the Commission shall, at a mimimum—[1]

[(A) review the availability of outreach, information, counseling, or supportive service programs, with particular attention to programs serving adults such as homemakers or retirees who are least likely to have access to normal sources of educational information; and

[(B) review the availability of alternative methods of evaluating past education credits and experience to promote adult participation in postsecondary education, and the availability of remedial courses for adult students.

[(4) The Commission shall coordinate the study conducted under this subsection with the research and demonstration priorities of the National Institute of Education, and such other studies on student financial assistance as are authorized by this Act.

[(c) The Commission shall submit to the President and to the Congress such interim reports as it deems advisable and, not later than December 31, 1983, a final report of its study and investigation together with such recommendations, including recommendations for legislation, as the Commission deems advisable.

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[1] So in law.

[(d) The Commission shall cease to exist 60 days after the submission of its final report.

[POWERS AND ADMINISTRATIVE PROVISIONS

[SEC. 104. (a) The Commission or, on authorization of the Commission, any subcommittee or member thereof, may, for the purposes of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, as the Commission or such subcommittee or member may deem advisable.

[(b) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government, shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

[(c) The Commission is authorized to—

[(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

[(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

[(3) enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of General Services;

[(4) procure supplies, services, and property, and make contracts, without regard to the laws and procedures applicable to Federal agencies; and

[(5) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

[AUTHORIZATION

[SEC. 105. There are authorized to be appropriated $3,000,000 to carry out the provisions of this part for the period beginning October 1, 1981 through March 1, 1984.

⟦PART B—EDUCATION OUTREACH PROGRAMS

⟦FINDINGS

⟦SEC. 111. The Congress finds that—

⟦(1) the rapid pace of social, economic, and technological change has created pressing needs for postsecondary educational opportunities for adults in all stages of life;

⟦(2) postsecondary educational opportunities in the United States are traditionally provided for individuals between the ages of eighteen and twenty-two;

⟦(3) many adults are barred from advancement or self-sufficiency by lack of access to, and lack of retention in, postsecondary educational opportunities appropriate to their needs, or by lack of information or support services concerning the availability of postsecondary educational opportunities;

⟦(4) access to postsecondary educational opportunities is severely limited for adults whose educational needs have been inadequately served during youth, or whose age, sex, race, handicap, national origin, rural isolation, or economic circumstance may be a barrier to such opportunities;

⟦(5) with declining population growth rates, the future of postsecondary education in the United States is largely dependent upon its ability to respond to the challenges of new student populations;

⟦(6) service in continuing education will be better achieved through increased emphasis on planning and coordination which more effectively utilizes existing resources of both public and private sectors; and

⟦(7) to meet the unique problems and needs of adults who are disadvantaged in seeking access to postsecondary educational opportunities, resources must be marshalled from a wide range of institutions and groups, including community colleges, community-based educational institutions, business, industry, labor, and other public and private organizations and institutions.

⟦STATE ALLOTMENTS

⟦SEC. 112. (a)(1) From 90 per centum of the funds appropriated for this part for each fiscal year, the Secretary shall—

⟦(A) allot to each State having an agreement under section 1203 of this Act an amount which bears the same ratio to 60 per centum of such amount as the adult population of that State bears to the adult population of all States, and

⟦(B) allot 40 per centum of such amount to all States having an agreement under section 1203 on an equal basis,

except that no State shall receive less than $187,500 in any such fiscal year. If 90 per centum of the sums appropriated for any fiscal year are insufficient to pay the allotment specified in clauses (A) and (B) of the previous sentence and the exception contained in the previous sentence, the amount of each State's allotment under such clauses (A) and (B) (but not the amount in the exception) shall be ratably reduced. If 90 per centum of the sums appropriated for any fiscal year are insufficient after the application of the previous sentence, the amount of each State's allotment shall be equal. In case additional funds become available in making such payments in any fiscal year during which the second and third sentence of this paragraph are applicable, such reduced amounts shall be increased on the same basis as they were reduced.

[(2) Ten per centum of the funds appropriated for this part shall be available for carrying out section 116.

[(b) If, in any fiscal year, a State does not wish to conduct comprehensive planning pursuant to section 113, the Secretary shall allot to such State an amount equal to the amount the State would otherwise receive for the conduct of programs of continuing education and information services under this part. The Secretary shall reallot the funds that would have been used by such State for the conduct of statewide planning under section 113 to all other States having agreements under section 1203. Such reallotments shall be made in proportion to their allotments pursuant to subsection (a).

[COMPREHENSIVE STATEWIDE PLANNING

[SEC. 113. (a)(1) Subject to paragraphs (2) and (3), each State with an agreement pursuant to section 1203 of this Act shall use at least 15 per centum but not to exceed 20 per centum of its allotment for the purpose of conducting comprehensive statewide planning for improving access and retention within the State to postsecondary educational programs for traditional and nontraditional learners, coordinating educational and occupational information and counseling services to youth and adults throughout the State, and promoting more effective and efficient use of available resources for continuing education within the State.

[(2) In any fiscal year in which appropriations for this part are equal to or exceed $18,500,000 but are less than $24,000,000, each State with an agreement pursuant to section 1203 of this Act shall use at least 10 per centum but not to exceed 15 per centum of its allotment for the purpose described in paragraph (1) of this subsection.

[(3) In any fiscal year in which the appropriations for this part are equal to or exceed $24,000,000, each State having an agreement pursuant to section 1203 of this Act shall use not to exceed 10 per centum of its allotment for the purpose described in paragraph (1) of this subsection.

[(b) A State shall submit to the Secretary at the end of each fiscal year for which sums have been received a list of programs assisted under this part, a brief description of the purposes of the programs, and an analysis of the relationship between grants and contracts awarded under this part and comprehensive statewide planning for postsecondary education.

[(c) Of the sums granted to States for comprehensive statewide planning, not less than 50 per centum shall be for the purpose of carrying out a program of statewide planning for continuing education in order to improve access for adults within the State to postsecondary education programs and to promote more effective and efficient use of available resources, including efforts to insure equal treatment of applicants in the evaluation of grant proposals, except that the Secretary may, upon application, grant a waiver to a State which has demonstrated that the State has adequately provided for meeting the needs of adult learners in its statewide planning activities. Such planning shall give particular consideration to the educational needs of adults who have been inadequately served by programs of postsecondary education.

[(d) Planning undertaken pursuant to this section shall be coordinated, to the maximum extent feasible, with the planning activities under subpart 4 of part A and part B of title IV and section 485 of this Act; the Carl D. Perkins Vocational Education Act; the Comprehensive Employment and Training Act; the Older Americans Act of 1965; the Rehabilitation Act of 1973; the Career Education Incentive Act; the Adult Education Act; the Veterans Readjustment Assistance Act; and other Federal, State, and local activities intended to provide outreach, guidance, counseling, and educational, student aid, and occupational information to persons within the State.

[(e) Each State may use the funds available for this section to conduct studies of student financial assistance needs and resources, information coordination, continuing education, and other topics consistent with the purposes of subsections (a) and (c) of this section.

[INFORMATION SERVICES

[SEC. 114. (a) Each State shall use not less than $50,000 nor more than 12 per centum of its allotment, whichever is greater, to conduct programs to develop and coordinate new and existing educational and occupational information and counseling programs to eliminate unnecessary duplication and to provide a more comprehensive delivery of services to both traditional and nontraditional learners seeking educational information and to youth and adults seeking occupational information.

[(b) Such educational and occupational information and counseling programs shall be coordinated to the maximum extent possible with those authorized by subpart 4 of part A and part B of title IV and section 485 of this Act; the Carl D. Perkins Vocational Education Act; the Comprehensive Employment and Training Act; the Older Americans Act of 1965; the Rehabilitation Act of 1973; the Career Education Incentive Act; the Adult Education Act; the Veterans Readjustment Assistance Act; and other Federal, State, and local activities intended to provide outreach, guidance, counseling, and educational, student aid, and occupational information to persons within the State.

[(c) For the purposes of carrying out this section, each State may make grants to, and enter into contracts with, institutions of higher education, public and private institutions and organizations, business, industry, and labor, or any combination thereof.

[CONTINUING EDUCATION

[SEC. 115. (a) Each State shall use such sums as may remain available from that State's allotment after reserving the amounts required to carry out the provisions of sections 113 and 114 of this part for the purpose of—

[(1) promoting access to and retention in postsecondary educational programs for adults whose educational needs have been inadequately served;

[(2) expanding and improving postsecondary education programs which help adults develop their occupational potential and prepare for transitions between education and work;

[(3) eliminating barriers posed by previous education or training, age, sex, race, handicap, national origin, rural isolation, or economic circumstance which may place adults at a disadvantage in seeking postsecondary educational opportunities;

[(4) strengthening statewide and other mechanisms of information, counseling, and referral which provide access to postsecondary education and serve the special needs of adults; and

[(5) developing strategies to promote the financial self-sufficiency of postsecondary education programs initiated pursuant to this part.

[(b) To promote the purposes of subsection (a), each State may make grants to and enter into contracts with public and private institutions and organizations, institutions of higher education, business, industry, and labor, or any combination thereof, for programs, such as—

[(1) the creation or expansion of labor education, training and technical assistance programs, and the development of cooperative relationships between State and local labor organizations and institutions and agencies which provide opportunities for continuing education;

[(2) the removal of barriers to continuing education caused by rural isolation or other rural-relatEd factors;

[(3) legal, vocational, and health educational services and information services for older individuals who use preretirement education as a means to adjust to retirement;

[(4) the promotion of resource sharing for innovative uses of technology, including telecommunications, either on an interstate or intrastate basis, to overcome barriers to postsecondary educational opportunities;

[(5) educational and occupational information and counseling services designed to meet the special needs of adult women, particularly homemakers, and to assist their entry or reentry into postsecondary education and the labor force;

[(6) the collection and dissemination of information, including data banks, on sources of student financial assistance and information designed to assist individuals to make choices among postsecondary institutions, programs, and other educational opportunities;

[(7) community education service activities consistent with the purpose of this section for adults in rural areas;

[(8) postsecondary educational programs suited to individuals whose educational needs have been inadequately served, especially the handicapped, older individuals, migrant and seasonal farmworkers, individuals who can participate in programs only on a part-time basis, and individuals who otherwise would be unlikely to continue their education beyond high school;

[(9) child care services to assist individuals desiring to participate to enter or reenter the field of postsecondary education and the labor force; and

[(10) the promotion or delivery of postsecondary education services to women at the place of their employment or in conjunction with their employment.

[(c) No grant or contract may be entered into to carry out the activities described in clause (9) of subsection (b) unless the agreement to make the grant or the contract contains provisions designed to assure that—

[(1) the State will provide assurances that the State has established a cooperative agreement between the State entity responsible for planning under section 113 and the agency responsible for coordinating child care services within the State; and

[(2) funds made available pursuant to such grant or contract will be used for services furnished only by child care providers licensed in the State or child care providers who have applied for renewal of such a license and are determined by the State to be likely to be approved for renewal.

[(d) Each State may use an amount which does not exceed 5 per centum of sums available for this section or $40,000, whichever is greater, for the administration and operation of programs described in subsection (b) of this section.

[FEDERAL DISCRETIONARY GRANTS

[SEC. 116. (a) From 10 per centum of the sums appropriated to carry out the provisions of this part, the Secretary is authorized to make grants to and enter into contracts with public and private institutions and organizations, institutions of higher education, business, industry, labor, and States, or any combination thereof for activities which—

[(1) develop and evaluate innovative delivery systems to increase access to postsecondary education for underserved adults;

[(2) expand the range of educational and community resources used to meet the needs of underserved adults for continuing education;

[(3) promote the development of interstate educational delivery systems, cooperative and consortial arrangements, and programs (including telecommunications) which more effectively address regional needs for continuing education;

[(4) stimulate and evaluate creative approaches to the problems of access for adults inadequately served by existing educational offerings;

[(5) develop statewide, regional, or national programs to coordinate educational and occupational information, including information on student financial assistance, through creation and expansion of data banks for the more effective coordination and dissemination of such information;

[(6) assist States to perform their functions of authorizing institutions of higher education effectively; and

[(7) provide preservice and inservice training to teachers and administrative personnel involved in child care programs, including the recruitment and training of low-income parents for child care positions, and provide specialized training in early childhood education, and to provide improved teacher certification criteria for child care programs.

[(b) No grant may be awarded under this section within a State unless the Secretary has provided the State entity responsible for comprehensive planning under section 1203, if applicable, an opportunity to comment on the relationship of the proposed grant to such planning.

[NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

[SEC. 117. (a) The President shall appoint a National Advisory Council on Continuing Education consisting of eight representatives of Federal agencies having postsecondary continuing education and training responsibilities, including but not limited to, one representative each from the Departments of Education, Agriculture, Defense, and Labor, and the Veterans' Administration; and twelve members, not full-time employees of the Federal Government, who are knowledgeable and experienced in the field of continuing education, including State and local government officials, representatives of business, labor, and community groups, and adults whose educational needs have been inadequately served. The Advisory Council shall meet at the call of the chairman but not less than twice a year.

[(b) The Advisory Council shall advise the Secretary in the preparation of general regulations and with respect to policies and procedures arising in the administration of this title.

[(c) The Advisory Council shall examine all federally supported continuing education and training programs and make recommendations with regard to policies to eliminate duplication and to effectuate the coordination of programs under this title and other federally funded continuing education and training programs and services.

[(d) The Advisory Council shall make annual reports to the President, the Congress, and the Secretary, commencing on September 30, 1981, of its findings and recommendations, including recommendations for changes in the provisions of this title and other Federal laws relating to continuing education and training activities. The President shall transmit each such report to the Congress with his comments and recommendations. The Advisory Council shall make such other reports or recommendations to the President, the Congress, the Secretary, or the head of any other Federal department or agency as may be appropriate.

[(e) The Advisory Council may utilize the services and facilities of any agency of the Federal Government as may be necessary. The Advisory Council may accept, employ, and dispose of gifts or bequests to carry out its responsibilities under this title.

[DEFINITIONS

[SEC. 118. For the purposes of this subpart—

[(1) the term "Commission" means the Commission on National Development in Postsecondary Education established under section 102;

[(2) the term "Advisory Council" means the National Advisory Council on Continuing Education established under section 117;

[(3) the term "adults whose educational needs have been inadequately served" means individuals eighteen years of age or older who, because of circumstances of age, sex, low income, handicap, minority status, rural isolation, status of unemployment or underemployment, lack of education, or other significant barriers have been discouraged from obtaining equal educational opportunities;

[(4) the term "continuing education" means postsecondary instruction and support services designed to meet the educational needs of adults, including the expansion of available learning opportunities for adults whose educational needs are inadequately served by current educational offerings in their communities; and

[(5) the term "adult population" means the population eighteen years old and older of a State and of all the States which shall be determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

[APPROPRIATIONS AUTHORIZED AND PAYMENTS

[SEC. 119. (a) There is authorized to be appropriated $20,000,000 for fiscal year 1981; $30,000,000 for fiscal year 1982; $40,000,000 for fiscal year 1983; $50,000,000 for fiscal year 1984; and $60,000,000 for fiscal year 1985 to carry out the provisions of this part.

[(b) Payments under this part shall not exceed two-thirds of the cost of activities assisted under this part. The non-Federal share may be in cash or in kind, but may not include payments received under any other Federal program.

[(c) Each State is authorized to use not more than 50 per centum of the funds provided under section 113 for the purpose of carrying out programs under section 115.]

TITLE II—COLLEGE AND RESEARCH LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

PURPOSE; AUTHORIZATION

SEC. 201. (a) The Secretary shall carry out a program to assist—

(1) institutions of higher education in the acquisition of library resources, including law library resources, and in the establishment and maintenance of networks for sharing library resources in accordance with part A;

(2) in the training of persons in librarianship and to encourage research and development relating to the improvement of libraries (including the promotion of economical and efficient information delivery, cooperative efforts, and developmental projects) in accordance with part B;

(3) the Nation's major research libraries, in maintaining and strengthening their collections, and in making their holdings available to other libraries whose users have need for research materials, in accordance with part C; and

(4) the establishment of a National Periodical System Corporation, in accordance with part D.

[(b)(1)(A) There are authorized to be appropriated to carry out part A $10,000,000 for the fiscal year 1981, $30,000,000 for the fiscal year 1982 and for each of the two succeeding fiscal years, and $35,000,000 for the fiscal year 1985.

[(B) There are authorized to be appropriated to carry out part B $10,000,000 for the fiscal year 1981, $30,000,000 for the fiscal year 1982 and for each of the two succeeding fiscal years, and $35,000,000 for the fiscal year 1985.

[(C) There are authorized to be appropriated to carry out part C $10,000,000 for the fiscal year 1981, $15,000,000 for the fiscal year 1982 and each of the three succeeding fiscal years.

[(2) Notwithstanding paragraph (1), no funds are authorized to be appropriated for part D unless the appropriation for each of parts A, B, and C equals or exceeds the amount appropriated for each such part, respectively, for fiscal year 1979.

[(c) No grant may be made under this title for books, periodicals, documents, or other related materials to be used for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity.]

(b)(1) There are authorized to be appropriated to carry out part A $5,000,000 for fiscal year 1987, $5,250,000 for fiscal year 1988, $5,512,500 for fiscal year 1989, $5,788,125 for fiscal year 1990, and $6,077,530 for fiscal year 1991.

(2) There are authorized to be appropriated to carry out part B $1,050,000 for fiscal year 1987, $1,103,000 for fiscal year 1988, $1,158,000 for fiscal year 1989, $1,216,000 for fiscal year 1990, and $1,277,000 for fiscal year 1991.

(3) There are authorized to be appropriated to carry out part C $6,300,000 for fiscal year 1987, $6,615,000 for fiscal year 1988, $6,940,000 for fiscal year 1989, $7,280,000 for fiscal year 1990, and $7,650,000 for fiscal year 1991.

NOTIFICATION OF STATE AGENCY

SEC. 202. Each institution of higher education which receives a grant under this title shall annually inform the State agency designated pursuant to section 1203 of its activities under this title.

[PART A—COLLEGE LIBRARY RESOURCES

[RESOURCE DEVELOPMENT GRANTS

[SEC. 211. (a) From the amount appropriated for this part, the Secretary shall make grants to institutions of higher education or combinations thereof (and to each branch of an institution which is located in a community different from that in which its parent institution is located), and to other public and private nonprofit library institutions whose primary function is to provide library and information services to institutions of higher education on a formal, cooperative basis. The amount of a resource development grant under this section shall not exceed $10,000.

[(b) A grant under this part may be made only if the application provides—

[(1) information about the institution and its library resources as prescribed by the Secretary in regulations;

[(2) satisfactory assurance that the applicant will expend, for all library material expenditures (exclusive of construction) during the fiscal year for which the grant is sought, from funds other than funds received under this part, an amount not less than the average annual aggregate amount or the average amount per full-time equivalent student it expended for such purposes during the two fiscal years preceding the fiscal year for which assistance is sought under this part;

[(3) for such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

[(4) for making such reports as the Secretary may require and for keeping such records and for affording such access thereto as the Secretary deems necessary to assure the correctness and verification of such reports.

[(c) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent the applicant from making the assurance required by subsection (b)(2), the requirement for such assurance may be waived. For purposes of this subsection, the term "very unusual circumstances" means theft, vandalism, fire, flood, earthquake, or other occurrence which may temporarily reduce the level of expenditures for library materials and total library purposes, or which resulted in unusually high expenditures for library materials and total library purposes.

[(d) Grants under this part may be used only for books, periodicals, documents, magnetic tapes, phonographic records, audiovisual materials, and other related library materials (including necessary binding) and for the establishment and maintenance networks for sharing library resources with other institutions of higher education.]

COLLEGE LIBRARY RESOURCES

SEC. 211. (a) From the amount appropriated for this part, the Secretary shall make grants to eligible institutions of higher education or combinations thereof (and to branches of institutions which are located in different communities from that in which its parent institution is located). The amount of a grant under this part shall not be less than $2,000 nor more than $10,000 and shall reflect the number of full-time equivalent students enrolled at the recipient institution. If the funds are not sufficient to provide grants to all eligible institutions, grants shall be made to those institutions demonstrating the greatest need, based on the eligibility criteria in section 211(c).

(b) A grant under this part may be made only if the application provides—

(1) information about the institution and its library resources as prescribed by the Secretary in regulations;

(2) satisfactory assurance that the applicant has expended for all library materials (exclusive of construction) during the institutional fiscal year preceding the year of application for which the grant is sought (hereafter in this section called the "base year"), from funds other than funds received under this part, an amount not less than the average annual aggregate amount or the average amount per full-time equivalent student it expended for such purposes during the 2 years preceding the base year;

(3) for such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part;

(4) for making such reports as the Secretary may require, including a report on how such funds received under a grant were expended, and for keeping such records and for affording such access thereto as the Secretary deems necessary to assure the correctness and verification of such reports; and

(5) a statement setting forth how the funds received under this part will be used to improve the quality of the institution's library services.

(c) In order to be considered an eligible institution, an institution must provide the Secretary assurance that—

(1) the expenditures of the institution per full-time equivalent student for library materials is less than the average of the expenditures for library materials per full-time equivalent student by other institutions of comparable size and program, as determined by the Secretary in accordance with definitions established by the National Center for Education; and

(2) the number of volumes per full-time equivalent student is less than the average of such number of volumes held by institutions of comparable size and program, as determined by the Secretary in accordance with definitions established by the National Center for Education Statistics.

(d) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent the applicant from making the assurance required by subsection (b)(2), the requirement for such assurance may be waived. For purposes of this subsection, the term "very unusual circumstances" means theft, vandalism, fire, flood, earthquake, or other occurrence which may temporarily reduce the level of expenditures for library materials, or which resulted in unusually high expenditures for library materials.

(e) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent an otherwise eligible institution from qualifying under subsection (c), the requirements of subsection (c) may be waived. The Secretary may not grant such waivers to more than 5 percent of the eligible institutions receiving grants under this part.

(f) Grants under this part may be used only for books, periodicals, documents, magnetic tapes, phonographic records, audiovisual materials, and other related library materials (including necessary binding) and for the establishment and maintenance of networks for sharing library resources with other institutions of higher education.

STUDY OF THE EFFECTIVENESS OF THE NEEDS CRITERIA FOR THE COLLEGE LIBRARY RESOURCE PROGRAM AUTHORIZED

SEC. 212. (a) The National Commission on Libraries and Information Sciences shall conduct a study on the effectiveness in directing assistance to libraries with the greatest need of the needs criteria specified in section 211 under this part.

(b) The National Commission on Libraries and Information Sciences shall prepare and submit a report to the Congress not later than 3 years after the conclusion of the first fiscal year in which appropriations are made for the College Library Resource Program authorized by section 211, as amended by section 212 of the Higher Education Amendments of 1985, together with such recommendations as the Commission on Libraries and Information Sciences deems appropriate.

PART B—LIBRARY TRAINING, RESEARCH, AND DEVELOPMENT

GRANTS AUTHORIZED

SEC. 221. From the amount appropriated for this part, the Secretary shall make grants in accordance with sections 222, 223, and 224. Of such amount, one-third shall be available for the purposes of each such section.

LIBRARY CAREER TRAINING

SEC. 222. (a) The Secretary shall make grants to, and contracts with, institutions of higher education and library organizations or agencies to assist them in training persons in librarianship. Such grants or contracts may be used by such institutions, library organizations, or agencies (1) to assist in covering the cost of courses of training or study (including short term or regular session institutes), (2) to establish and maintain fellowships or traineeships with stipends (including allowances for travel, subsistence, and other expenses) for fellows and others undergoing training and their dependents, not in excess of such maximum amounts as may be determined by the Secretary, and (3) to establish, develop, or expand programs of library and information science, including new techniques of information transfer and communication technology.

(b) Not less than 50 per centum of the grants made under this section shall be for the purpose of establishing and maintaining fellowships or traineeships under subsection (a)(2).

RESEARCH AND DEMONSTRATIONS

SEC. 223. The Secretary is authorized to make grants to, and contracts with, institutions of higher education and other public or private agencies, institutions, and organizations for research and demonstration projects related to the improvement of libraries, training in librarianship, and information technology, and for the dissemination of information derived from such projects.

SPECIAL PURPOSE GRANTS

SEC. 224. (a) The Secretary is authorized to make special purpose grants to (1) institutions of higher education to meet special national or regional needs in the library or information sciences, (2) combinations of institutions of higher education which demonstrate a need for special assistance in establishing and strengthening joint-use library facilities, resources, or equipment, (3) other public and private nonprofit library institutions which provide library and information services to institutions of higher education on a formal, cooperative basis for the purpose of establishing, developing, or expanding programs or projects that improve their services, and (4) institutions of higher education which demonstrate a need for special assistance to develop or expand programs or projects that will service the communities in which the institutions are located.

(b) A grant under this section may be made only if the application therefor (whether by an individual institution or a combination of institutions) is approved by the Secretary on the basis of criteria prescribed in regulations and provides satisfactory assurance that (1) the applicant will expend during the fiscal year for which the grant is sought (from funds other than funds received under this title), for the same purpose as such grant, an amount from such other sources equal to not less than one-third of such grant, and (2) the applicant will expend during such fiscal year from such other sources for all library purposes (exclusive of construction) an amount not less than the average annual amount it expended for such purposes during the two fiscal years preceding the fiscal year for which the grant is sought under this section.

PART C—STRENGTHENING RESEARCH LIBRARY RESOURCES

ELIGIBILITY FOR ASSISTANCE

SEC. 231. (a)(1) From the amount appropriated for this part, the Secretary shall make grants to institutions with major research libraries.

(2) For the purposes of this part, the term "major research library" means a public or private nonprofit institution (including the library resources of an institution of higher education), an independent research library, or a State or other public library, having a library collection which is available to qualified users and which—

(A) makes a significant contribution to higher education and research;

(B) is broadly based and is recognized as having national or international significance for scholarly research;

(C) is of a unique nature, and contains material not widely available; and

(D) is in substantial demand by researchers and scholars not connected with that institution.

(b) No institution receiving a grant under this part for any fiscal year may receive a grant under section 211 or 224 for that year.

(c) In determining eligibility for assistance under this part, the Secretary shall permit institutions that do not otherwise qualify to provide additional information or documents to demonstrate the national or international significance for scholarly research of the particular collection described in the grant proposal.

GEOGRAPHICAL DISTRIBUTION OF GRANTS

SEC. 232. In making grants under this part, the Secretary shall endeavor to achieve broad and equitable geographical distribution throughout the Nation.

[PART D—NATIONAL PERIODICAL SYSTEM

[PURPOSE

[SEC. 241. It is the purpose of this part to assess the feasibility and advisability of, and, if feasible and advisable, prepare a design for a national periodical system to serve as a national periodical resource by contributing to the preservation of periodical materials and by providing access to a comprehensive collection of periodical literature to public and private libraries throughout the United States.

[ESTABLISHMENT

[SEC. 242. There is established a nonprofit corporation, to be known as the National Periodical System Corporation, which shall not be considered an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this part, and to the extent consistent with this Act, to the laws of the jurisdiction where incorporated.

[FUNCTIONS OF THE CORPORATION

[SEC. 243. (a) The Corporation shall assess the feasibility and advisability of a national system and, if feasible and advisable, design such a system to provide reliable and timely document delivery from a comprehensive collection of periodical literature. A design may be implemented by the Corporation only in accordance with the provisions of section 248.

[(b) Any design for a national periodical system shall include provisions for such system to—

[(1) acquire current and past issues of periodicals, and to preserve and maintain a dedicated collection of such documents;

[(2) provide information on periodicals to which the system can insure access, including those circulated from private sector sources, and cooperate in efforts to improve bibliographic and physical access to periodicals;

[(3) make such periodicals available through libraries, by loan, photoreproduction or other means;

[(4) cooperate with and participate in international borrowing and lending activities as may be appropriate for such purposes;

[(5) ensure that copyright owners who do not wish to participate in such system are not required to participate;

[(6) ensure that copyright fees are fixed by the copyright owners for any reproduction or dissemination of a document delivered through the system;

[(7) complement and not duplicate activities in the private sector to provide access to periodical literature;

[(8) ensure, to the maximum extent feasible, that such system not adversely affect the publication and distribution of current periodicals, particularly scholarly periodicals of small circulation; and

[(9) ensure coordination with existing programs to distribute periodical literature, including programs of regional libraries and programs of interlibrary loan and library networks.

[(c) Any design shall include provisions for the role, if any, of the Corporation in the governance, administration, and operation of the system.

[(d) Any design shall be accompanied by an estimate of the cost for each fiscal year of carrying out the system proposed in the design.

[BOARD OF DIRECTORS

[SEC. 244. (a) The Corporation shall have a Board of Directors, consisting of fifteen members, including fourteen members appointed by the President, by and with the advice and consent of the Senate, and the Director of the Corporation.

[(b) The members of the Board appointed by the President shall be equitably representative of the needs and interests of the Government, academic and research communities, libraries, publishers, the information community, authors, and the public. Except for the initial Board of Directors, the members shall be appointed after consultation with the Board.

[(c) The members of the initial Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the laws of the jurisdiction in which it is incorporated.

[(d) The term of office for each member of the Board (other than the Director) shall be two years except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Notwithstanding the preceding provisions of this paragraph, a member whose term has expired may serve until his successor has taken office.

[(e)(1) The members of the Board shall not, by reason of membership, be deemed employees of the United States. Except as provided in paragraph (2), members shall, while engaged in activities of the Board, be entitled to receive compensation at the rate equal to the daily rate prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day and, while away from their homes or regular place of business, may be allowed travel expenses.

[(2) Members of the Corporation who are full-time officers and employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Corporation.

[(f) Eight members of the Board shall constitute a quorum.

[(g) The Board shall elect annually one of its members to serve as the Chairman.

[(h) The Board shall meet annually or at the call of the Chairman or a majority of its members.

[DIRECTOR AND STAFF OF CORPORATION

[SEC. 245. (a) The Corporation shall have a Director, and such other officers as appointed by the Board for the terms and at rates of compensation fixed by the Board. The Director shall manage the operations of the Corporation, subject to such rules as may be prescribed by the Board.

[(b) Subject to such rules as may be prescribed by the Board, the Director may appoint and fix the pay of personnel and may procure temporary and intermittent services.

[NONPROFIT NATURE OF CORPORATION

[SEC. 246. (a) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

[(b) No part of the incomes or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

[(c) The National Periodical System Corporation shall be exempt from taxation now or hereafter imposed by the United States, or any territory or possession thereof, or by any State, county, municipality, or local taxing authority.

[AUTHORITY OF CORPORATION

[SEC. 247. (a) The Corporation is authorized to—

[(1) obtain grants from and to make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions;

[(2) conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

[(3) lease, purchase, or otherwise acquire, own, hold, improve, use or otherwise deal in and with any property (real, personal, or mixed), or any interest therein, wherever situated;

[(4) sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets; and

[(5) enter into contracts, execute instruments, incur liabilities, and do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

[(b) To carry out its functions and to engage in the activities described in subsection (a), the Corporation shall have the usual powers conferred upon a nonprofit corporation by the jurisdiction in which the Corporation is incorporated.

[(c) The Corporation may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States. The Administrator of General Services shall provide to the Corporation on a reimbursable basis such administrative support services as the Corporation may request.

[(d) The Corporation is authorized to accept, hold, administer, and use gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the authority of the Corporation pursuant to section 243. For the purpose of Federal income, estate, and gift taxes, property accepted by the National Periodical System Corporation shall be a gift, bequest, or devise to the United States.

[(e) The Corporation shall be subject to the provisions of section 552b of title 5, United States Code.

[IMPLEMENTING THE DESIGN

[SEC. 248. Any design established under this part shall be submitted to the Congress not later than December 31, 1981, and may not be implemented until the design is approved in whole or in part by enactment of a joint resolution of the Congress approving such design.

[COPYRIGHT ACT

[SEC. 249. Nothing in this part shall be considered to amend, affect, or redefine the provisions of title 17, United States Code, relating to copyrights.

[DEFINITIONS

[SEC. 250. As used in this part—

[(1) the term "access" means the ability to identify, locate, and obtain a specific item (generally a periodical article), and includes both bibliographic access (the ability to identify a specific item from its description) and physical access to materials (the ability to obtain the text of an item in an appropriate form, such as visual, audio, or printed formats);

[(2) the term "Board" means the Board of Directors of the National Periodical System Corporation;

[(3) the term "comprehensive collection" means a collection of periodical titles which will provide access to approximately 90 per centum of the requests received, except that such titles need not all be physically located in the same place;

[(4) the term "copyright owner" means the owner of any one of the exclusive rights comprised in a copyright;

[(5) the term "Corporation" means the National Periodical System Corporation established under this part;

[(6) the term "dedicated collection" means a collection of periodicals maintained for the sole purpose of assuring the provision of permanent physical access;

[(7) the term "document" means any portion or the entire issue of a periodical;

[(8) the term "periodical" means a publication consisting of issues in a continuous series under the same title published at regular or irregular intervals, over an indefinite period, individual issues in the series being numbered consecutively or each issue being dated; and

[(9) the term "private sector" means nongovernmental, nonprofit, and for-profit organizations.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 251. (a) There are authorized to be appropriated, for the purpose of carrying out this part, $750,000 for each of fiscal years

1981 and 1982, and such sums as may be necessary for each of the fiscal years 1983, 1984, and 1985.

[(b) In any fiscal year after the joint resolution described in section 248 is enacted, there are authorized to be appropriated such additional sums as may be necessary to implement an approved design for any such fiscal year ending prior to October 1, 1985.

[TITLE III—INSTITUTIONAL AID

[FINDINGS AND PURPOSES

[SEC. 301. (a) The Congress finds that—

[(1) many institutions of higher education in this era of declining enrollments and scarce resources face problems which threaten their ability to survive;

[(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as to an inability to engage in long-range planning, recruitment activities, and development activities;

[(3) the solution of the problems of these institutions would enable them to become viable, thriving institutions of higher education; and

[(4) these institutions play an important role in the American system of higher education, and there is a strong national interest in assisting them in solving their problems and in stabilizing their management and fiscal operations.

[(b) It is the purpose of this title to assist such institutions through a program of Federal assistance.

[PART A—STRENGTHENING INSTITUTIONS

[PROGRAM PURPOSE

[SEC. 311. (a) The Secretary shall carry out a program, in accordance with this part, to improve the academic quality, institutional management, and fiscal stability of eligible institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

[(b) From the sums available for this part under section 347(a)(1), the Secretary may award grants to any eligible institution with an application approved under section 341 in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution. Special consideration shall be given to applications which propose to engage in the following activities pursuant to the institution's plan:

[(1) faculty development;

[(2) funds and administrative management;

[(3) development and improvement of academic programs;

[(4) acquisition of equipment for use in strengthening funds management and academic programs;

[(5) joint use of facilities such as libraries and laboratories; and

[(6) student services.

[DEFINITIONS

[SEC. 312. For purposes of this part:

[(1) The term "educational and general expenditures" means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation, and maintenance expenditures for physical plant, and any mandatory transfers which the institution is required to pay by law.

[(2) The term "eligible institution" means—

[(A) an institution of higher education—

[(i)(I) which, in the case of an institution which awards a bachelor's degree, has an enrollment which includes a substantial percentage of students receiving awards under subpart 1 of part A of title IV, the average amount of which is high in comparison with the average amount of all grants awarded under such subpart to students at such institutions, and (II) which, in the case of junior or community colleges, has an enrollment which includes a substantial percentage of students receiving awards under subpart 1 of title IV, the average amount of which is high in comparison with the average amount of all grants awarded under such subpart to students at such institutions;

[(ii) except as provided in section 342(a), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

[(iii)(I) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (II) is a junior or community college;

[(iv) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

[(v) except as provided in section 342(b) has, during the five academic years preceding the academic year for which it seeks assistance under this part—

[(I) met the requirement of either clause (iii)(I) or (iii)(II), or of both such clauses (simultaneously or consecutively); and

[(II) met the requirement of clause (iv); and

[(vi) meets such other requirements as the Secretary may prescribe; or

[(B) any branch of any institution of higher education described under subparagraph (A) which by itself satisfies the requirements contained in clauses (i) and (ii) of such subparagraph.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under subparagraph (A)(i) shall be given twice the weight of the factor described under subparagraph (A)(ii).

[(3) The term "full-time equivalent students" means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve) at such institution.

[(4) The term "junior or community college" means an institution of higher education—

[(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

[(B) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

[(C) that—

[(i) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

[(ii) offers a two-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

[DURATION OF GRANT

[Sec. 313. (a) The Secretary may award a grant to an eligible institution under this part for—

[(1) not to exceed three years, or

[(2) not less than four nor more than seven years,

subject for each fiscal year to the availability of appropriations therefor. The Secretary shall not accept the application of an eligible institution for a grant under both paragraphs (1) and (2) for a fiscal year.

[(b) The Secretary shall not award a grant under this part to an eligible institution that has, for any prior fiscal year, received a grant under subsection (a)(2).

[(c) Notwithstanding subsection (a), the Secretary may award a grant to an eligible institution under this part for a period of one year for the purpose of assisting such institution in the preparation of plans and applications under this part.

[PART B—AID TO INSTITUTIONS WITH SPECIAL NEEDS

[PROGRAM PURPOSE

[SEC. 321. (a) The purpose of this part is to provide for a program of short-term Federal assistance to strengthen the planning, management, and fiscal capabilities of institutions with special needs.

[(b) From the sums available for this part under section 347(a)(1), the Secretary may make grants to any institution with special needs with an application approved under section 341 in order to assist such an institution to plan, develop, or implement activities consistent with the purpose of this part. Such activities shall include—

[(1) faculty development;

[(2) funds and administrative management;

[(3) development and improvement of academic programs;

[(4) acquisition of equipment for use in strengthening funds management and academic programs;

[(5) joint use of facilities such as libraries and laboratories; and

[(6) student services.

[DEFINITIONS

[SEC. 322. (a) For purposes of this part:

[(1) The term "educational and general expenditures" means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation, and maintenance expenditures of physical plant, and any mandatory transfers which the institution is required to pay by law.

[(2) The term "institution with special needs" means—

[(A) an institution of higher education—

[(i)(I) which, in the case of an institution which awards a bachelor's degree. has an enrollment which includes a substantial percentage of students receiving need-based assistance under title IV of this Act, the average amount of which assistance is high in comparison with the average amount of all assistance provided under such title to students at such institutions, and (II) which, in the case of junior or community colleges, has an enrollment which includes a substantial percentage of students receiving need-based assistance under title IV, the average amount of which assistance is high in comparison with the average amount of all assistance provided under such title to students at such institutions;

[(ii) except as provided in section 342(a), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

[(iii)(I) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (II) is a junior or community college;

[(iv) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

[(v) except as provided in section 342(b) has, during the five academic years preceding the academic year for which it seeks assistance under this part—

[(I) met the requirement of either clause (iii)(I) or (iii)(II), or of both such clauses (simultaneously or consecutively); and

[(II) met the requirement of clause (iv);

[(vi) has an enrollment of not less than 100 full-time equivalent students in the academic year for which the determination is made; and

[(vii) meets such other requirements as the Secretary may prescribe; or

[(B) any branch of any institution of higher education described under subparagraph (A) which by itself satisfies the requirements contained in clauses (i), (ii), and (vi) of such subparagraph and which is located in a community different from that in which its parent institution is located.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under subparagraph (A)(i) shall be given the same weight as the factor described under subparagraph (A)(ii), and the Secretary may also consider the factors specified under subsection (b) of this section.

[(3) The term "full-time equivalent students" means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time at such institution (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve).

[(4) The term "junior or community college" means an institution of higher education—

[(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

[(B) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

[(C) that—

[(i) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

[(ii) offers a two-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

[(b) In determining whether an institution is an institution with special needs under subsection (a)(2), the Secretary may also consider the following factors:

[(1) extreme financial limitations requiring low faculty salaries, low costs of instruction for students, and low library expenditures;

[(2) a little or no endowment, whether or not unrestricted;

[(3) a high student to faculty ratio;

[(4) a substantial percentage of students receiving need-based Federal student assistance;

[(5) limited library resources;

[(6) a low percentage of faculty with doctorate degrees;

[(7) poor physical facilities and limited resources to maintain physical facilities;

[(8) little or no support from foundations, alumni, or corporations;

[(9) limited or no sponsored research or faculty publications;

[(10) inadequate development offices and a limited capacity for long-range planning; and

[(11) poor or inadequate fiscal management and accounting procedures.

[DURATION OF GRANT

[Sec. 323. The Secretary may make a grant to any institution with special needs under this part for a period of not more than five years. A grant to enhance the planning capabilities of an institution shall not exceed one year.

[FEDERAL SHARE

[Sec. 324. The Federal share of the cost of grants made to institutions with special needs under this part shall be 100 per centum for the first two years in which an institution receives a grant, 90 per centum for the third year an institution receives a grant, 80 per centum for the fourth year an institution receives a grant, and 70 per centum for the fifth year an institution receives a grant.

[PART C—CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

[ESTABLISHMENT OF CHALLENGE GRANT PROGRAM

[Sec. 331. (a)(1) From the sums available under section 347(a)(2) for each fiscal year, the Secretary may award a challenge grant to each institution—

[(A) which is an eligible institution under part A or would be considered to be such an institution if section 312(2)(A)(iii) referred to a postgraduate degree rather than a bachelor's degree; or

[(B) which is an institution with special needs under part B or would be considered to be such an institution if section 322(a)(2)(A)(iii) referred to a postgraduate degree rather than a bachelor's degree; or

[(C) which is an institution of higher education which includes a substantial number of minority and educationally disadvantaged students, which provides a medical education program which leads to a doctor of medicine degree or which is not less than a two year program fully acceptable toward such a degree, and which in fiscal year 1980 received a grant as a two year medical school under section 788(a) of the Health Professions Educational Assistance Act of 1976.

[(2) The Secretary may waive the requirements set forth in subparagraphs (A) and (B) of paragraph (1) with respect to a postgraduate degree in the case of any institution otherwise eligible under such paragraph for a challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.

[(b) The Secretary may make a grant under this section for a period of not more than 5 years. A grant under this section may be used for the programs and activities described in part A or part B, as the case may be.

[APPLICATIONS FOR CHALLENGE GRANTS

[SEC. 332. (a) Any institution eligible for a challenge grant under section 331(a) may apply for such a grant under section 341, except that the application for the purpose of this part shall—

[(1) provide evidence that funds are available to the applicant to match funds that the Secretary is requested to make available to the institution as a challenge grant;

[(2) in the case of an application by a public institution, contain the recommendations of an appropriate State agency responsible for higher education in the State, or provide evidence that the institution requested the State agency to comment but the State agency failed to comment; and

[(3) in the case of an application by an institution described under section 331(a)(1)(B), demonstrate how challenge grant funds will be used to eradicate the conditions enumerated in section 322(b) (1) through (11), and lead to greater financial independence.

[(b) Not later than April 1 of the fiscal year preceding the fiscal year in which any grant is to be made under this part, the Secretary shall determine which institutions will receive challenge grants under this part and notify the institutions of the amount of the grant.

[(c) In approving applications for grants under this part, preference shall be given to institutions which are receiving, or have received, grants under part A or part B.

[ENDOWMENT GRANTS

[SEC. 333. (a)(1) The purpose of this section is to establish a program to provide matching grants to eligible institutions of higher education in order to establish or increase endowment funds at such institutions, to provide additional incentives to promote fundraising activities by such institutions, and to foster increased independence and self-sufficiency at such institutions.

[(2) For purposes of this section:

[(A) The term "endowment fund" means a fund established by State law, by an institution of higher education, or by a foundation which is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, but which shall not include real estate.

[(B) The term "endowment fund corpus" means an amount equal to the grant or grants awarded under this section plus an amount equal to such grant or grants provided by the institution.

[(C) The term "endowment fund income" means an amount equal to the total value of the endowment fund established under this section minus the endowment fund corpus.

[(b)(1) From sums available for this section under section 347, the Secretary is authorized to award endowment grants to eligible institutions of higher education to establish or increase an endowment fund at such institution. Such grants shall be made only to eligible institutions described in paragraph (4) whose applications have been approved pursuant to subsection (g).

[(2) No institution shall receive a grant under this section, unless such institution has deposited in its endowment fund established under this section an amount equal to the amount of such grant. The source of funds for this institutional match shall not include Federal funds or funds from an existing endowment fund.

[(3)(A) The period of a grant under this section shall be not more than twenty years.

[(B) During the grant period, an institution may not withdraw or expend any of the endowment fund corpus.

[(C) After the termination of the grant period, an institution may use the endowment fund corpus plus any endowment fund income for any educational purpose.

[(4)(A) An institution of higher education is eligible to receive a grant under this section if it is an eligible institution as described in section 331(a)(1).

[(B) No institution shall be ineligible for an endowment grant for a fiscal year by reason of the previous receipt of such a grant, but no institution shall be eligible to receive such a grant for more than two fiscal years out of any period of five consecutive fiscal years.

[(5) An endowment grant under this section to an eligible institution year shall—

[(A) not be less than $50,000 for any fiscal year; and

[(B) not be more than (i) $250,000 for fiscal year 1984; or (ii) $500,000 for fiscal year 1985 or any succeeding fiscal year.

[(6)(A) An eligible institution may designate a foundation, which was established for the purpose of raising money for the institution, as the recipient of the grant awarded under this section.

[(B) The Secretary shall not award a grant to a foundation on behalf of an institution unless—

[(i) the institution assures the Secretary that the foundation is legally authorized to receive the endowment fund corpus and is legally authorized to administer the fund in accordance with this section and any implementing regulations;

[(ii) the foundation agrees to administer the fund in accordance with the requirements of this section and any implementing regulation; and

[(iii) the institution agrees to be liable for any violation by the foundation of the provisions of this section and any implementing regulations, including any monetary liability that may arise as a result of such violation.

[(c)(1) An institution awarded a grant under this section shall enter into an agreement with the Secretary containing satisfactory assurances that it will (A) immediately comply with the matching requirements of subsection (b)(2), (B) establish an endowment fund independent of any other such fund of the institution, (C) invest the endowment fund corpus, and (D) meet the other requirements of this section.

[(2)(A) An institution shall invest the endowment fund corpus and endowment fund income in low-risk securities in which a regulated insurance company may invest under the law of the State in which the institution is located such as a federally insured bank savings account or comparable interest bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

[(B) The institution, in investing the endowment fund established under this section, shall exercise the judgment and care, under the circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of his own affairs.

[(3)(A) An institution may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of such college, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, and technical assistance.

[(B)(i) Except as provided in clause (ii), an institution may not spend more than 50 per centum of the total aggregate endowment fund income earned prior to the time of expenditure.

[(ii) The Secretary may permit an institution to spend more than 50 per centum of the endowment fund income notwithstanding clause (i) if the institution demonstrates such an expenditure is necessary because of (I) a financial emergency, such as a pending insolvency or temporary liquidity problem; (II) a life-threatening situation occasioned by a natural disaster or arson; or (III) another unusual occurrence or exigent circumstance.

[(d)(1) If at any time an institution withdraws part of the endowment fund corpus, it shall repay to the Secretary an amount equal to 50 per centum of the withdrawn amount, which represents the

Federal share, plus income earned thereon. The Secretary may use such repaid funds to make additional endowment grants, or to increase existing endowment grants, to other eligible institutions.

[(2) If an institution expends more of the endowment fund income than is permitted under subsection (c), the grantee shall repay the Secretary an amount equal to 50 per centum of the amount improperly expended (representing the Federal share thereof). The Secretary may use such repaid fund to make additional endowment grants, or to increase existing endowment grants, to other eligible institutions.

[(e) An institution receiving a grant under this section shall provide to the Secretary (or his designee) such information (or access thereto) as may be necessary to audit or examine expenditures made from the endowment fund corpus or income in order to determine compliance with this section.

[(f) In selecting eligible institutions for grants under this section for any fiscal year, the Secretary shall—

[(1) give priority to an applicant which is a recipient of a grant made under part A or B of this title during the academic year in which the applicant is applying for a grant under this section; and

[(2) give priority to an applicant with a greater need for such a grant, based on the current market value of the applicant's existing endowment in relation to the number of full-time equivalent students enrolled at such institution;

[(3) consider—

[(A) the effort made by the applicant to build or maintain its existing endowment fund; and

[(B) the degree to which an applicant proposes to match the grant with nongovernmental funds.

[(g) Any institution which is eligible for assistance under this section may submit to the Secretary a grant application at such time, in such form, and containing such information as the Secretary may prescribe. Subject to the availability of appropriations to carry out this section and consistent with the requirement of subsection (f), the Secretary may approve an application for a grant if an institution, in its application, provides adequate assurances that it will comply with the requirements of this section.

[(h)(1) After notice and an opportunity for a hearing, the Secretary may terminate and recover a grant awarded under this section if the grantee institution—

[(A) expends portions of the endowment fund corpus or expends more than the permissible amount of the endowment funds income as prescribed in subsection (c)(3);

[(B) fails to invest the endowment fund in accordance with the investment standards set forth in subsection (c)(2); or

[(C) fails to properly account to the Secretary concerning the investment and expenditures of the endowment funds.

[(2) If the Secretary terminates a grant under paragraph (1), the grantee shall return to the Secretary an amount equal to the sum of the original grant or grants under this section plus income earned thereon. The Secretary may use such repaid funds to make additional endowment grants, or to increase existing endowment grants, to other eligible institutions.

[PART D—GENERAL PROVISIONS

[APPLICATIONS FOR ASSISTANCE

[SEC. 341. (a) Any institution which is eligible for assistance under this title may submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate its need for assistance. Subject to the availability of appropriations to carry out this title, the Secretary may approve an application for a grant under this title if the application meets the requirements of subsection (b) and shows that the applicant is eligible for assistance in accordance with the part of this title under which the assistance is sought.

[(b) An institution, in its application for a grant, shall---

[(1) set forth, or describe how it will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title);

[(2) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 311(b) or 321(b), and in no case supplant those funds;

[(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

[(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this title;

[(5) provide for making such reports, in such form and containing such information, as the Secretary may require to carry out his functions under this title (including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded), and for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

[(6) provide that the institution will comply with the limitations set forth in section 346;

[(7) include such other information as the Secretary may prescribe; and

[(8) describe in a comprehensive manner any development project for which funds are sought under the application and include—

[(A) a description of the various components of the development project, including the estimated time required to complete each such component;

[(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this title in conjunction with other parts of the development project (as specified by the applicant);

[(C) an evaluation by the applicant of the priority given any development project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this title, and a similar evaluation regarding priorities among the components of any single development project (as described by the applicant pursuant to subparagraph (A));

[(D) in the case of a request for an award for a period of more than one year, a statement of reasons explaining why funds are necessary for each year of such period and why a single year award would be inadequate;

[(E) information explaining the manner in which the development project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, increased energy costs, and other problems;

[(F) a detailed budget showing the manner in which funds for any development project would be spent by the applicant; and

[(G) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (F).

[WAIVER AUTHORITY AND REPORTING REQUIREMENT

[SEC. 342. (a)(1) The Secretary may waive the requirements set forth in section 312(2)(A)(ii) or section 322(a)(2)(A)(ii) if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet that criterion is due to factors which, when used in the determination of compliance with such criterion, distort such determination, and that the institution's designation as an eligible institution under part A or as an institution with special needs under part B (as the case may be) is otherwise consistent with the purposes of such parts.

[(2) The Secretary shall submit to the Congress each year a report concerning the institutions which, although not satisfying the criterion contained in section 312(2)(A)(ii) or section 322(a)(2)(A)(ii), have been determined to be eligible institutions under part A or institutions with special needs under part B, as the case may be. Such report shall—

[(A) identify the factors referred to in paragraph (1) which were considered by the Secretary as factors that distorted the determination of compliance with section 312(2)(A)(ii) or section 322(a)(2)(A)(ii), as the case may be; and

[(B) contain a list of each institution determined to be an eligible institution under part A or as an institution with special needs under part B and include a statement of the reasons for each such determination.

[(b) The Secretary may waive the requirement set forth in sections 312(2)(v) and 322(a)(2)(v) in the case of an institution—

[(1) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians;

[(2) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Spanish-speaking people;

[(3) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of individuals living in rural areas, whose needs are for the most part unserved by other postsecondary education institutions;

[(4) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of low-income individuals; or

[(5) wherever located, if the Secretary determines that the institution has traditionally served substantial numbers of black students.

[APPLICATION REVIEW PROCESS

[SEC. 343. (a)(1) All applications submitted under this title by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary. The Secretary shall insure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

[(2) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title and consistent with the provisions of this title, including—

[(A) explanations and examples of the types of activities referred to in section 311(b) that should receive special consideration for grants awarded under part A and of the types of activities referred to in section 321(b) that should receive special consideration for grants awarded under part B;

[(B) an enumeration of the factors to be used to determine the quality of applications submitted under this title; and

[(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the amount of any such grant, and the duration of any such grant.

[(b) In awarding grants under this title, the Secretary shall take into consideration the recommendations of the panel made under subsection (a).

[(c) Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under this title of—

[(1) the scores given the applicant by the panel pursuant to this section,

[(2) the recommendations of the panel with respect to such application, and

[(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this title, and any modifications, if any, in the recommendations of the panel made by the Secretary.

[COOPERATIVE ARRANGEMENTS

[SEC. 344. (a) The Secretary may make grants to encourage cooperative arrangements—

[(1) with funds available to carry out part A, between institutions eligible for assistance under part A; or

[(2) with funds available to carry out part B, between institutions eligible for assistance under part B;

for the activities described in section 311(b) or section 321(b), as the case may be, so that the resources of the cooperating institutions might be combined and shared to achieve the purposes of such parts and avoid costly duplicative efforts.

[(b) The Secretary shall give priority to grants for the purposes described under subsection (a) whenever the Secretary determines that the cooperative arrangement is geographically and economically sound.

[(c) Grants to institutions having a cooperative arrangement may be made under this section for a period as determined under section 313 or 323, as the case may be.

[ASSISTANCE TO INSTITUTIONS UNDER OTHER PROGRAMS

[SEC. 345. (a) Each institution which the Secretary determines to be an eligible institution under part A or an institution with special needs under part B shall be eligible for waivers in accordance with subsection (b).

[(b)(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by an institution referred to in subsection (a) for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

[(2) The provisions of this section shall apply to any program authorized by title II, IV, VII, or VIII of this Act.

[(c) The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 per centum of the appropriations for the program for any fiscal year.

[LIMITATIONS

[SEC. 346. The funds appropriated under section 347 may not be used—

[(1) for a school or department of divinity or any religious worship or sectarian activity;

[(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

[(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

[(4) for purposes other than those set forth in the approved application under which the funds were made available to the institution.

[AUTHORIZATIONS

[SEC. 347. (a)(1) There are authorized to be appropriated to carry out parts A and B $175,000,000 for the fiscal year 1982, $185,000,000 for the fiscal year 1983, $200,000,000 for the fiscal year 1984, and $220,000,000 for the fiscal year 1985. Of the amounts appropriated under this paragraph for each fiscal year, 50 per centum shall be made available to carry out part A and 50 per centum shall be made available to carry out part B.

[(2) There are authorized to be appropriated to carry out part C $25,000,000 for the fiscal year 1982, $35,000,000 for the fiscal year 1983, $45,000,000 for the fiscal year 1984, and $50,000,000 for the fiscal year 1985. Of the amount appropriated for such part for fiscal year 1984, 20 per centum shall be available for grants under section 333 of such part, and of the amount appropriated for such part for fiscal year 1985, 100 per centum shall be available for grants under such section[1]

[(b) In the event of a multiple year award to any institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

[(c)(1) Of the sums appropriated under subsection (a)(1) for any fiscal year for part A, the Secretary shall make available to use for the purposes of each such part—

[(A) not less than 24 per centum to institutions that are junior or community colleges, and

[(B) the remainder to institutions that plan to award a bachelor's degree during that year.

[(2) Of the sums appropriated under subsection (a)(1) for any fiscal year for part B, the Secretary shall make available to use for the purposes of each such part—

[(A) not less than 30 per centum to institutions that are junior or community colleges, and

[(B) the remainder to institutions that plan to award a bachelor's degree during that year.

[(d) Of the sums appropriated under subsection (a)(1) for the purpose of part A for any fiscal year, the Secretary shall make available not less than 25 per centum for grants under section 313(a)(2). Any funds made available under this subsection for such grants which are not expended during the fiscal year for which such funds were appropriated shall remain available for expenditure for the purpose of making such grants during subsequent fiscal years.

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[1] Concluding period is missing. See Public Law 98-95 (97 Stat. 711).

[(e) The Secretary shall assure that in each fiscal year the amount available under part B for institutions with special needs that historically serve substantial numbers of black students will not be less than 50 per centum of the amount received by such institutions for fiscal year 1979.

[(f)(1) For each fiscal year, the Secretary shall reserve from the amount appropriated for part B such sums as may be necessary to fund continuation awards for multiple year grants awarded to institutions under section 331 prior to October 1, 1983.

[(2) For each fiscal year, the Secretary may reserve from the amount appropriated for part B, not more than an amount equal to the difference between the amount awarded under paragraph (1) and the amount equal to the aggregate amount institutions receiving grants under part B would contribute under section 324 to the cost of their grants in that fiscal year assuming their grant amounts are the same as those received in the prior fiscal year. The Secretary may use this amount to award grants to eligible institutions under section 333.

[(3) In reserving and awarding funds under this subsection, the Secretary shall assure in each fiscal year that the funds that would have been reserved under part B for institutions described in subsection (c) or (e) shall be reserved under section 331 or 333 for those institutions.]

TITLE III—INSTITUTIONAL AID

FINDINGS AND PURPOSES

SEC. 301. (a) FINDINGS.—The Congress finds that—

(1) many institutions of higher education in this era of declining enrollments and scarce resources face problems which threaten their ability to survive;

(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as to an inability to engage in long-range planning, recruitment activities, and development activities, including endowment building;

(3) the title III program prior to 1985 did not always meet the specific development needs of historically black colleges and universities and other institutions with large concentrations of minority, low-income students;

(4) the solution of the problems of these institutions would enable them to become viable, fiscally stable and independent, thriving institutions of higher education;

(5) providing a minimum level of assistance to all categories of eligible institutions will assure the continued participation of the institutions in the program established in title III and enhance their role in providing access and quality education to low-income and minority students; and

(6) these institutions play an important role in the American system of higher education, and there is a strong national interest in assisting them in solving their problems and in stabilizing their management and fiscal operations, and in becoming financially independent.

(b) PURPOSE.—It is the purpose of this title to assist such institutions through a program of Federal assistance.

PART A—STRENGTHENING INSTITUTIONS

PROGRAM PURPOSE

SEC. 311. (a) GENERAL AUTHORIZATION.—The Secretary shall carry out a program, in accordance with this part, to improve the academic quality, institutional management, and fiscal stability of eligible institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

(b) GRANTS AWARDED; SPECIAL CONSIDERATION.—(1) From the sums available for this part under section 358(a)(1), the Secretary may award grants to any eligible institution with an application approved under section 351 in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution.

(2) Special consideration shall be given to any eligible institution—

(A) which has endowment funds (other than any endowment fund built under section 332 of this Act as in effect on September 30, 1986, and under part B) the market value of which, per full-time equivalent student, is less than the average current market value of the endowment funds, per full-time equivalent student (other than any endowment fund built under section 332 of this Act as in effect on September 30, 1986, and under part B) at similar institutions; or

(B) which has expenditures per full-time equivalent student for library materials which is less than the average of the expenditures for library materials per full-time equivalent student by other similarly situated institutions.

(3) Special consideration shall be given to applications which propose, pursuant to the institution's plan, to engage in—

(A) faculty development;

(B) funds and administrative management;

(C) development and improvement of academic programs;

(D) acquisition of equipment for use in strengthening funds management and academic programs;

(E) joint use of facilities such as libraries and laboratories; and

(F) student services.

DEFINITIONS

SEC. 312. For purposes of this part:

(1) The term "educational and general expenditures" means the total amount expended by an institution of higher education for instruction, research, public service, academic support

(including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers which the institution is required to pay by law.

(2) The term "eligible institution" means—

(A) an institution of higher education—

(i)(I) which, in the case of an institution which awards a bachelor's degree, has an enrollment which includes at least 50 percent of the students so enrolled who are receiving need-based assistance under title IV of this Act (other than loans for which an interest subsidy is paid pursuant to section 428), unless this requirement is waived under section 352(a), and (2) which, in the case of junior or community colleges, has an enrollment which includes at least 50 percent of the students so enrolled who are receiving need-based assistance under title IV of this Act (other than loans for which an interest subsidy is paid pursuant to section 428);

(ii) except as provided in section 352(b), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

(iii)(I) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (II) is a junior or community college;

(iv) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

(v) except as provided in section 352(b) has, during the 5 academic years preceding the academic year for which it seeks assistance under this part—

(I) met the requirement of either subclause (iii)(I) or (iii)(II), or of both such subclauses (simultaneously or consecutively); and

(II) met the requirement of subclause (iv); and

(vi) meets such other requirements as the Secretary may prescribe;

(B) any branch of any institution of higher education described under clause (A) which by itself satisfies the requirements contained in subclauses (i) and (ii) of such clause;

(C) any institution of higher education which has an enrollment of which at least 20 percent are Mexican American, Puerto Rican, Cuban, or other Hispanic students, or combination thereof, and which also satisfies the requirements of subclauses (i) and (ii) of such clause;

(D) any institution of higher education which has an enrollment of at least 60 percent American Indian, Alaska

Native or Aleut, or combination thereof, and which also satisfies the requirements of subclauses (i) and (ii) of such clause; and

(E) any institution of higher education which has an enrollment of which at least 5 percent are Native Hawaiian, Asian American, American Samoan, Micronesian, Guamian (Chamorro), and Northern Mariania, or any combination thereof, and which also satisfies the requirements of subclauses (i) and (ii) of such clause.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under clause (A)(i) shall be given twice the weight of the factor described under clause (A)(ii).

(3) The term "full-time equivalent students" means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

(4) The term "junior or community college" means an institution of higher education—

(A) that admits as regular students persons who are beyond the age of complusory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(B) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

(c) that—

(i) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree, or

(ii) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

DURATION OF GRANT

SEC. 313. (a) General Rule.—The Secretary may award a grant to an eligible institution under this part for—

(1) not to exceed 3 years,

(2) not to exceed 4 years if the eligible institution provides assurances that the eligible institution will not reapply for a grant under this part for 4 years; and

(3) not to exceed 5 years if the eligible institution provides assurances that the eligible institution will not reapply for a grant under this part for 5 years.

(b) PLANNING GRANTS.—Notwithstanding subsection (a), the Secretary may award a grant to an eligible institution under this part

for a period of 1 year for the purpose of preparation of plans and applications for a grant under this part.

PART B—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

FINDINGS AND PURPOSES

SEC. 321. The Congress finds that—

(1) the historically black colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for black, low-income, and educationally disadvantaged Americans;

(2) States and the Federal Government have discriminated in the allocation of land and financial resources to support black public institutions under the Morrill Act of 1862 and its progeny, and against public and private black colleges and universities in the award of Federal grants and contracts, and the distribution of Federal resources under this Act and other Federal programs which benefit institutions of higher education;

(3) the current state of black colleges and universities is partly attributable to the discriminatory action of the States and the Federal Government and this discriminatory action requires the remedy of enhancement of black postsecondary institutions to ensure their continuation and participation in fulfilling the Federal mission of equality of educational opportunity; and

(4) financial assistance to establish or strengthen the physical plants, financial management, academic resources, and endowments of the historically black colleges and universities are appropriate methods to enhance these institutions and facilitate a decrease in reliance on government financial support and to encourage reliance on endowments and private sources.

DEFINITIONS

SEC. 322. For the purposes of this part:

(1) The term "graduate" means an individual who has attended an institution for at least three semesters and fulfilled academic requirements for undergraduate studies in not more than 5 consecutive school years.

(2) The term "part B institution" means any historically black college or university that was established prior to 1964 and whose principle mission was, and is, the education of black Americans.

(3) The term "Pell Grant recipient" means a recipient of financial aid under title IV, part A, subpart 1 of this Act.

(4) The term "professional and academic areas in which blacks are underrepresented" shall be determined by the Administrator of the National Center for Education Statistics and the Commission of the Bureau of Labor Statistics, on the basis of the most recent available satisfactory data, as professional and academic areas in which the percentage of black Americans who have been educated, trained, and employed is less than the percentage of blacks in the general population.

(5) The term "school year" means the period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

GRANTS TO INSTITUTIONS

Sec. 323. (a) General Authorization; Uses of Funds.—From amounts available under section 358(a)(2) in any fiscal year the Secretary shall make grants (under section 324) to institutions which have applications approved by the Secretary (under section 325) for any of the following uses:

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

(2) Renovation and improvement in classroom, library, laboratory, and other instructional facilities.

(3) Support of faculty exchanges and faculty fellowships to assist in attaining advanced degrees in their field of instruction.

(4) Academic instruction in disciplines in which black Americans are underrepresented.

(5) Purchase of library books, periodicals, microfilm, and other educational materials.

(6) Tutoring, counseling, and student service programs designed to improve academic success.

(b) Limitation.—No grant may be made under this Act for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this subsection, the term 'school or department of divinity' means an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

ALLOTMENTS TO INSTITUTIONS

Sec. 324. (a) Allotment; Pell Grant Basis.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-half that amount as the number of Pell Grant recipients in attendance and in good standing at such institution at the end of the school year preceding the beginning of that fiscal year bears to the total number of Pell Grant recipients at all part B institutions.

(b) Allotment; Graduates Basis.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary, shall allot to each part B institution a sum which bears the sum ratio to one-fourth that amount as the number or graduates for such school year at such institution bears to the total number of graduates for such school year at all part B institutions.

(c) Allotment; Graduate and Professional Student Basis.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth that amount as the number of graduates, who are admitted to and in attendance at a graduate or professional school in a degree program in disciplines

in which blacks are underrepresented, bears to the number of such graduates for all part B institutions.

(d) REALLOTMENT.—The amount of any part B institution's allotment under subsection (a), (b), or (c) for any fiscal year which the Secretary determines will not be required for such institution for the period such allotment is available shall be available for reallotment from time to time on such date during such period as the Secretary may determine to other part B institutions in proportion to the original allotment to such other institutions under this section for such fiscal year.

(e) SPECIAL MERGER RULE.—(1) The Secretary shall permit any eligible institution for a grant under part B in any fiscal year prior to the fiscal year 1986 to apply for a grant under this part if the eligible institution has merged with other institution of higher education which is not so eligible or has merged with an eligible institution.

(2) The Secretary may establish such regulations as may be necessary to carry out the requirement of paragarph (1) of this subsection.

(f) SPECIAL RULE FOR CERTAIN DISTRICT OF COLUMBIA ELIGIBLE INSTITUTIONS.—In any fiscal year that the Secretary determines that Howard University or the University of the District of Columbia will receive an allotment under subsections (b) and (c) of this section which is not in excess of amounts received by Howard University under the Act of March 2, 1867 (14 Stat. 438; 20 U.S.C. 123), relating to annual authorization of appropriations for Howard University, or by the University of the District of Columbia under the District of Columbia Self-Government and Governmental Reorganization Act (87 Stat. 774) for such fiscal year, then Howard University and the University of the District of Columbia, as the case may be, shall be ineligible to receive an allotment under this section.

APPLICATIONS

SEC. 325. (a) CONTENTS.—No part B institution shall be entitled to its allotment of Federal funds for any grant under section 324 for any period unless that institution meets the requirements of section 312(2)(A) (iii), (iv), and (v) and submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the payments under this Act will be used for the purposes set forth in section 322; and

(2) provide for making an annual report to the Secretary and provide for—

(A) conducting, except as provided in clause (B), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this title at least once every two years and covering the period since the most recent audit, conducted by a qualified, independent organization of person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(B) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (A) for the period covered by such audit.

(b) APPROVAL.—The Secretary shall approve any application which meets the requirements of subsection (a) and shall not disapprove any application submitted under this part, or any modification thereof, without first affording such institution reasonable notice and opportunity for a hearing.

PROFESSIONAL OR GRADUATE INSTITUTIONS

SEC. 326. (a) General Authorization.—(1) Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the postgraduate institutions listed in subsection (e) that is determined by the Secretary to be making a substantial contribution to the legal, medical, dental, veterinary, or other graduate education opportunities for black Americans.

(2) No grant in excess of $500,000 may be made under this section unless the postgraduate institution provides assurances that 50 percent centum of the cost of the purposes for which the grant is made will be paid from non-Federal sources.

(b) DURATION.—Grants shall be made for a period not to exceed 5 years. No more than two 5-year grants (for a period of not more than 10 years) may be made to any one undergraduate or postgraduate institution.

(c) USES OF FUNDS.—A grant under this section may be used for—

(1) any of the purposes enumerated under section 323;

(2) to establish or improve a development office to strengthen and increase contributions from alumni and the private sector; and

(3) to assist in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 333 of this title.

(d) APPLICATION.—Any institution eligible for a grant under this section shall submit an application which—

(1) Demonstrates how the grant funds will be used to improve graduate educational opportunities for black and low-income students, and lead to greater financial independence; and

(2) provides, the case of applications for grants in excess of $500,000, the assurances required by subsection (a)(2) and specifies the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

(e) ELIGIBLE PROFESSIONAL OR GRADUATE INSTITUTIONS.—Independent professional or graduate institutions eligible for grants under subsection (a) include—

(1) Morehouse School of Medicine;

(2) Meharry Medical School;

(3) Charles R. Drew Postgraduate Medical School;

(4) Atlanta University; and

(5) Tuskegee Institute School of Veterinary Medicine.

REPORTING AND AUDIT REQUIREMENTS

SEC. 327. (a) RECORDKEEPING.— Each recipient of a grant under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose—

(1) the amount and disposition by such recipient of the proceeds of such assistance;

(2) the cost of the project or undertaking in connection with which such assistance is given or used;

(3) the amount of that portion of the cost of the project or undertaking supplied by other sources; and

(4) such other records as will facilitate an effective audit.

(b) REPAYMENT OF UNEXPENDED FUNDS.—Any funds paid to an institution and not expended or used for purposes for which the funds were paid within 10 years following the date of the initial grant awarded to an institution under part B of this title shall be repaid to the Treasury of the United States.

PART C—CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

ESTABLISHMENT OF CHALLENGE GRANT PROGRAM

SEC. 331. (a) GENERAL AUTHORIZATION; ELIGIBILITY.—(1) From the sums available under section 360(a)(3) for each fiscal year, the Secretary may award a challenge grant to each institution—

(A) which is an eligible institution under part A or would be considered to be such an institution if section 312(2)(A)(iii) referred to a postgraduate degree rather than a bachelor's degree; or

(B) which is an institution under part B or would be considered to be such an institution if section 324 referred to a postgraduate degree rather than a baccalaureate degree.

(2) The Secretary may waive the requirements set forth in subparagraphs (A) and (B) of paragraph (1) with respect to a postgraduate degree in the case of any institution otherwise eligible under such paragraph for a challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.

(b) USES OF FUNDS.—A grant under this section may be used by an institution eligible for a grant under this section to assist the institution to achieve financial independence.

(c) CONTENTS OF APPLICATIONS.—Any institution eligible for a challenge grant under this section may apply for such a grant under section 351, except that the application for the purpose of this part shall—

(1) provide assurances that funds will be available to the applicant within 1 year to match funds that the Secretary is requested to make available to the institution as a challenge grant;

(2) in the case of an application by a public institution, contain the recommendations of an appropriate State agency responsible for higher education in the State, or provide evidence that the institution requested the State agency to comment but the State agency failed to comment; and

(3) demonstrate how challenge grant funds will be used to achieve financial independence.

(d) Notice of Approval.—Not later than Aapril 1 of the fiscal year preceding the fiscal year in which any grant is to be made under this section, the Secretary shall determine which institutions will receive challenge grants under such section and notify the institutions of the amount of the grant.

e) Preference.—In approving applications for such grants, preference shall be given to institutions which are receiving, or have received, grants under part A or part B of this title.

ENDOWMENT CHALLENGE GRANTS

Sec. 332. (a) Purpose; Definitions.—(1) The purpose of this section is to establish a program to provide matching grants to eligible institutions of higher education in order to establish or increase endowment funds at such institutions, to provide additional incentives to promote fund raising activities by such institutions, and to foster increased independence and self-sufficiency at such institutions.

(2) For purposes of this section:

(A) The term "endowment fund" means a fund established by State law, by an institution of higher education, or by a foundation which is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, but which shall not include real estate.

(B) The term "endowment fund corpus" means an amount equal to the grant or grants awarded under this section plus an amount equal to such grant or grants provided by the institution.

(C) The term "endowment fund income" means an amount equal to the total value of the endowment fund established under this section minus the endowment fund corpus.

(b) Grants Authorized.—(1) From sums available for this section under section 360, the Secretary is authorized to award challenge grants to eligible institutions of higher education to establish or increase an endowment fund at such institution. Such grants shall be made only to eligible institutions described in paragraph (4) whose applications have been approved pursuant to subsection (g).

(2)(A) Except as provided in subparagraph (B), no institution shall receive a grant under this section, unless such institution has deposited in its endowment fund established under this section an amount equal to the amount of such grant. The source of funds for this institutional match shall not include Federal funds or funds from an existing endowment fund.

(B) In any fiscal year in which the appropriations for this part exceeds $10,000,000, the Secretary may make a grant under this part to an eligible institution of higher education if such institution—

(i) has deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant;

(ii) applies for a grant in an amount exceeding $1,000,000; and

(iii) provides assurances that the institution will not make an application for a grant under this section for a period of 10 years after the approval of its application pursuant to this subparagraph.

(3) The period of a grant under this section shall be not more than 20 years. During the grant period, an institution may not withdraw or expend any of the endowment fund corpus. After the termination of the grant period, an institution may use the endowment fund corpus plus any endowment fund income for any educational purpose.

(4)(A) An institution of higher education is eligible to receive a grant under this section if it is an eligible institution as described in section 331(a)(1).

(B) No institution shall be ineligible for a challenge grant under this section for a fiscal year by reason of the previous receipt of such a grant but no institution shall be eligible to receive such a grant for more than 2 fiscal years out of any period of 5 consecutive fiscal years.

(5) Except as provided in paragraph (2)(B), a challenge grant under this section to an eligible institution year shall—

(A) not be less than $50,000 for any fiscal year; and

(B) not be more than (i) $250,000 for fiscal year 1987; or (ii) $500,000 for fiscal year 1988 or any succeeding fiscal year.

(6)(A) An eligible institution may designate a foundation, which was established for the purpose of raising money for the institution, as the recipient of the grant awarded under this section.

(B) The Secretary shall not award a grant to a foundation on behalf of an institution unless—

(i) the institution assures the Secretary that the foundation is legally authorized to receive the endowment fund corpus and is legally authorized to administer the fund in accordance with this section and any implementing regulation;

(ii) the foundation agrees to administer the fund in accordance with the requirements of this section and any implementing regulation; and

(iii) the institution agrees to be liable for any violation by the foundation of the provisions of this section and any implementing regulation, including any monetary liability that may arise as a result of such violation.

(c) GRANT AGREEMENT; ENDOWMENT FUND PROVISIONS.—(1) An institution awarded a grant under this section shall enter into an agreement with the Secretary containing satisfactory assurances that it will (A) immediately comply with the matching requirements of subsection (b)(2), (B) establish an endowment fund independent of any other such fund of the institution, (C) invest the endowment fund corpus, and (D) meet the other requirements of this section.

(2)(A) An institution shall invest the endowment fund corpus and endowment fund income in low-risk securities in which a regulated insurance company may invest under the law of the State in which the insitution is located such as a federally insured bank savings account or comparable interest-bearing account certificate of deposit, money market fund, mutual fund, or obligations of the United States.

(B) The institution, in investing the endowment fund established under this section, shall exercise the judgment and care, under the circumstance then prevailing, which a person of prudence, descretion, and intelligence would exercise in the management of such person's own affairs.

(3)(A) An institution may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of such college, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, and technical assistance.

(b)(i) Except as provided in clause (ii), an institution may not spend more than 50 percent of the total aggregate endowment fund income earned prior to the time of expenditure.

(ii) The Secretary may permit an institution to spend more than 50 percent of the endowment fund income notwithstanding clause (i) if the institution demonstrates such an expenditure is necessary because of (I) a financial emergency, such as a pending insolvency or temporary liquidity problem, (II) a life-threatening situation occasioned by a natural disaster or arson; or (III) any other unusual occurrence or exigent circumstance.

(d) REPAYMENT PROVISIONS.*—(1) If at any time an institution withdraws part of the endowment fund corpus, the institution shall repay to the Secretary an amount equal to 50 percent of the withdrawn amount, which represents the Federal share, plus income earned thereon. The Secretary may use such repaid funds to make additional challenge grants, or to increase existing endowment grants, to other eligible institutions.*

(2) If an institution expends more of the endowment fund income than is permitted under subsection (c), the institution shall repay the Secretary an amount equal to 50 percent of the amount improperly expended (representing the Federal share thereof). The Secretary may use such repaid fund to make additional challenge grants, or to increase existing challenge grants, to other eligible institutions.

(e) AUDIT INFORMATION.*—An institution receiving a grant under this section shall provide to the Secretary (or a designee thereof) such information (or access thereto) as may be necessary to audit or examine expenditures made from the endowment fund corpus or income in order to determine compliance with this section.*

(f) SELECTION CRITERIA.*—In selecting eligible institutions for grants under this section for any fiscal year, the Secretary shall—*

(1) give priority to an applicant which is a recipient of a grant made under part A or part B of this title during the academic year in which the applicant is applying for a grant under this section; and

(2) give priority to an applicant with a greater need for such a grant, based on the current market value of the applicant's existing endowment in relation to the number of full-time equivalent students enrolled at such institution;

(3) consider—

(A) the effort made by the applicant to build or maintain its existing endowment fund; and

(B) the degree to which an applicant proposes to match the grant with nongovernmental funds.

(g) APPLICATION.—Any institution which is eligible for assistance under this section may submit to the Secretary a grant application at such time, in such form, and containing such information as the Secretary may prescribe. Subject to the availability of appropriations to carry out this section and consistent with the requirement of subsection (f), the Secretary may approve an application for a grant if an institution, in its application, provides adequate assurances that it will comply with the requirements of this section.

(h) TERMINATION AND RECOVERY PROVISIONS.—(1) After notice and an opportunity for a hearing, the Secretary may terminate and recover a grant awarded under this section if the grantee institution—

(A) expends portions of the endowment fund corpus or expends more than the permissible amount of the endowment funds income as prescribed in subsection (c)(3);

(B) fails to invest the endowment fund in accordance with the investment standards set forth in subsection (c)(2); or

(C) fails to properly account to the Secretary concerning the investment and expenditures of the endowment funds.

(2) If the Secretary terminates a grant under paragraph (1), the grantee shall return to the Secretary an amount equal to the sum of each original grant under this section plus income earned thereon. The Secretary may use such repaid funds to make additional endowment grants, or to increase existing challenge grants, to other eligible institutions under this part.

PART D—GENERAL PROVISIONS

APPLICATIONS FOR ASSISTANCE

SEC. 351. (a) APPLICATION REQUIRED; APPROVAL.—Any institution which is eligible for assistance under this title shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate its need for assistance. Subject to the availability of appropriations to carry out this title, the Secretary may approve an application for a grant under this title if the application meets the requirements of subsection (b) and shows that the applicant is eligible for assistance in accordance with the part of this title under which the assistance is sought.

(b) CONTENTS.—An institution, in its application for a grant, shall—

(1) set forth, or describe how it will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title);

(2) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 311(b) or 323, and in no case supplant those funds;

(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this title;

(5) provide (A) for making such reports, in such form and containing such information, as the Secretary may require to carry out the functions under this title, including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded, and (B) for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

(6) provide that the institution will comply with the imitations set forth in section 356;

(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

> *(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;*
>
> *(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this title in conjunction with other parts of the development project (as specified by the applicant);*
>
> *(C) an evaluation by the applicant of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this title, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the applicant pursuant to subparagraph (A));*
>
> *(D) in the case of a request for an award for a period of more than 1 year, a statement of reasons explaining why funds are necessary for each year of such period and why a single year award would be inadequate.*
>
> *(E) information explaining the manner in which the proposed project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, increased energy costs, and other problems;*
>
> *(F) a detailed budget showing the manner in which funds for any proposed project would be spent by the applicant; and*
>
> *(G) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (F); and*

(8) include such other information as the Secretary may prescribe.

(c) Priority Criteria Publication Required.—The Secretary shall publish in the Federal Register, pursuant to chapter 5 of title 5, United States Code, all policies and procedures required to exercise the authority set forth in subsection (a). No other criteria, policies, or procedures shall apply.

(d) Eligibility Data.—The Secretary shall use the most recent and relevant data concerning the number and percentage of students receiving need-based assistance under title IV of this Act in making eligibility determinations under section 312 and shall advance the base-year forward following each annual grant cycle.

WAIVER AUTHORITY AND REPORTING REQUIREMENT

Sec. 352. (a) Waiver Requirements; Need-Based Assistance Students.—The Secretary shall waive the requirements set forth in section 312(2)(A)(i)(I) in the case of an institution (1) which is extensively subsidized by the State in which it is lcoated and charges low or no tuition; (2) which serves a substantial number of low- and middle-income students as a percentage of its total student population; (3) which is contributing substantially to increasing higher education opportunities for educationally disadvantaged, underrepresented, or minority students, who are low-income individuals; or (4) which is substantially increasing higher educational opportunities for individuals in rural or other isolated areas which are unserved by postsecondary institutions.

(b) Waiver Determinations; Expenditures.—(1) The Secretary may waive the requirements set forth in section 312(2)(A)(ii) if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet that criterion is due to factors which, when used in the determination of compliance with such criterion, distort such determination, and that the institution's designation as an eligible institution under part A is otherwise consistent with the purposes of such parts.

(2) The Secretary shall submit to the Congress each year a report concerning the institutions which, although not satisfying the criterion contained in section 312(2)(A)(ii), have been determined to be eligble institutions under part A or Hispanic, Native American, Asian American, or Pacific Basin institutions under part D, as the case may be. Such report shall—

(A) identify the factors referred to in paragraph (1) which were considered by the Secretary as factors that distorted the determination of compliance with section 312(2)(A) (i) and (ii); and

(B) contain a list of each institution determined to be an eligible institution under part A including a statement of the reasons for each such determination.

(c) Waiver Determinations; Authority and Accreditation.—The Secretary may waive the requirement set forth in section 312(2)(v) in the case of an institution—

(1) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the

waiver will substantially increase higher education opportunities appropriate to the needs of American Indians;

(2) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Hispanic Americans, Native Americans, Asian Americans, or Pacific Islanders, including Native Hawaiians;

(3) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of individuals living in rural areas, whose needs are for the most part unserved by other postsecondary education institutions;

(4) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of low-income individuals; or

(5) wherever located, if the Secretary determines that the institution has traditionally served substantial numbers of black students.

APPLICATION REVIEW PROCESS

SEC. 353. (a) REVIEW PANEL.—(1) All applications submitted under this title by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary. The Secretary shall assure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

(2) The Secretary shall take care to assure that representatives of historically black colleges, Hispanic institutions, Native American institutions, and Native American Pacific Islanders, including Native Hawaiians are included as readers.

(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title and consistent with the provisions of this title, including—

(A) explanations and examples of the types of activities referred to in section 311(b) that should receive special consideration for grants awarded under part A and of the types of activities referred to in section 323 that should receive special consideration for grants awarded under part B;

(B) an enumeration of the factors to be used to determine the quality of applications submitted under this title; and

(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the amount of any such grant, and the duration of any such grant.

(b) RECOMMENDATIONS OF PANEL.—In awarding grants under this title, the Secretary shall take into consideration the recommendations of the panel made under subsection (a).

(c) NOTIFICATION.—Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under this title of—

(1) the scores given the applicant by the panel pursuant to this section;

(2) the recommendations of the panel with respect to such application; and

(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this title, and any modifications, if any, in the recommendations of the panel made by the Secretary.

COOPERATIVE ARRANGEMENTS

SEC. 354. (a) GENERAL AUTHORITY.—The Secretary may make grants to encourage cooperative arrangements—

(1) with funds available to carry out part A, between institutions eligible for assistance under part A and between such institutions and institutions not receiving assistance under this title; or

(2) with funds available to carry out part B, between institutions eligible for assistance under part B and institutions not receiving assistance under this title;

for the activities described in section 311(b) or section 323, as the case may be, so that the resources of the cooperating institutions might be combined and shared to achieve the purposes of such parts and avoid costly duplicative efforts and to enhance the development of part A and part B eligible institutions.

(b) PRIORITY.—The Secretary shall give priority to grants for the purposes described under subsection (a) whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant institution.

(c) DURATION.—Grants to institutions having a cooperative arrangement may be made under this section for a period as determined under section 313.

SPECIAL PAYMENTS RULES

SEC. 355. (a) HISTORICALLY BLACK COLLEGE PAYMENTS RULE.—Any historically black college or university which, prior to September 30, 1986, received a grant under part A of this title in effect prior to such date and continues to receive a grant under such part A for any fiscal year beginning after September 30, 1986, and ending prior to October 1, 1991, shall be paid from amounts appropriated to carry out part B of this title.

(b) OTHER INSTITUTIONS SPECIAL PAYMENT RULE.—Each eligible institution other than an historically black college or university which received a grant under part B of this title in effect prior to such date and continues to receive a grant under such part B for any fiscal year beginning after September 30, 1986, and ending prior to October 1, 1991, shall be paid out of appropriations made pursuant to part A.

(c) SPECIAL RULE FOR UNOBLIGATED PART A AND PART B FUNDS.—In any fiscal year in which amounts appropriated pursuant to part A or part B for this title are available for obligation in the year succeeding the year in which the funds were appropriated, the Secretary shall make such funds available for grants under section 332, relating to the Endowment Challenge Program, for the

same type of institution for which the grants would have been made had the funds been paid pursuant to such part A or part B.

ASSISTANCE TO INSTITUTIONS UNDER OTHER PROGRAMS

SEC. 356. (a) ASSISTANCE ELIGIBILITY.—Each institution which the Secretary determines to be an institution eligible under part A or an institution eligible under part B shall be eligible for waivers in accordance with subsection (b).

(b) WAIVER APPLICABILITY.—(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by an institution referred to in subsection (a) for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

(2) The provisions of this section shall apply to any program authorized by title II, IV, VII, or VIII of this Act.

(c LIMITATION.—The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 percent of the appropriations for the program for any fiscal year.

LIMITATIONS

SEC. 357. The funds appropriated under section 360 may not be used—

(1) for a school or department of divinity or any religious worship or sectarian activity;

(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

(4) for purposes other than the purposes set forth in the approved application under which the funds were made available to the institution.

PENALTIES

SEC. 358. Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this title embezzles, willfully misapplies, steals, or obtains by fraud any of the funds which are the subject of such grant or assistance, shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both.

CHALLENGE GRANT APPLICATION REQUIRED

SEC. 359. The Secretary shall not make a Challenge Grant to any grantee institution under section 313(a)(2) or under part B which has not applied for funds under part C and compiled with section 332(a)(1) of part C after September 30, 1989.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 360. (a) AUTHORIZATIONS.—There are authorized to be appropriated to carry out part A $85,000,000 for fiscal year 1987, $89,250,000 for fiscal year 1988, $93,710,000 for fiscal year 1989, $98,398,000 for fiscal year 1990, and $103,318,000 for fiscal year 1991.

(2)(A) There are authorized to be appropriated to carry out part B (other than section 326) $55,000,000 for fiscal year 1987, $57,750,000 for fiscal year 1988, $60,637,000 for fiscal year 1989, $63,669,000 for fiscal year 1990, and $66,850,000 for fiscal year 1991.

(B) There are authorized to be appropriated to carry out section 326 $5,000,000 for fiscal year 1987 and for each of the succeeding fiscal years ending prior to October 1, 1991.

(3) There are authorized to be appropriated to carry out part C $20,000,000 for fiscal year 1987, $21,250,000 for fiscal year 1988, $22,560,000 for fiscal year 1989, $23,940,000 for fiscal year 1990, and $25,387,000 for fiscal year 1991.

(b) USE OF MULTIPLE YEAR AWARDS.—In the event of a multiple year award to any institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

(c) PRIORITY; SPECIAL CONSIDERATION.—(1) Of the sums appropriated under subsection (a)(1) for any fiscal year for part A, the Secretary shall make available for use for the purposes of parts A and C to institutions that are junior or community colleges not less than $51,400,000 for the fiscal year 1987 and each fiscal year ending prior to October 1, 1991, if the appropriations for part A for each such fiscal year are equal to or exceed the amount appropriated for part A for fiscal year 1986.

(2) Of the sums appropriated under subsection (a)(1) for any fiscal year which exceed the amount appropriated in fiscal year 1986 for part A, the secretary shall give priority to applications from eligible institutions with significant groups of students who are minority, or who are underrepresented in higher education, or who are educationally disadvantaged.

(d) RATABLE REDUCTION IN FISCAL YEARS IN WHICH AMOUNTS APPROPRIATED ARE INSUFFICIENT.—In any fiscal year in which the sums appropriated for part A are insufficient to make the reservations required by subsection (c) of this section, the Secretary shall ratably reduce the amount of the reservation.

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

STATEMENT OF PURPOSE; PROGRAM AUTHORIZATION

SEC. 401. (a) It is the purpose of this part, to assist in making available the benefits of postsecondary education to eligible students (defined in accordance with section 484) in institutions of higher education by—

(1) providing basic educational opportunity grants (hereinafter referred to as "basic grants") to all eligible students;

(2) providing supplemental educational opportunity grants (hereinafter referred to as "supplemental grants") to those students who demonstrate financial need;

(3) providing for payments to the States to assist them in making financial aid available to such students;

(4) providing for special programs and projects designed (A) to identify and encourage qualified youths with financial or cultural need with a potential for postsecondary education, (B) to prepare students from low-income families for postsecondary education, and (C) to provide remedial (including remedial language study) and other services to students; and

(5) providing assistance to institutions of higher education.

(b) The Secretary shall, in accordance with subparts 1, 2, 3, 4, and 5, carry out programs to achieve the purposes of this part.

SUBPART 1—BASIC EDUCATIONAL OPPORTUNITY GRANTS

BASIC EDUCATIONAL OPPORTUNITY GRANTS: AMOUNT AND DETERMINATIONS; APPLICATIONS

SEC. 411. (a)(1)(A) The Secretary shall, during the period beginning July 1, 1972, and ending September 30, 1991, pay to each eligible student (defined in accordance with section 484) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to paragraph (2).

(B) The purpose of this subpart is to provide a basic grant that (i) as determined under paragraph (2), will meet [in academic year 1985–1986, 70 per centum] *60 per centum* of a student's cost of attendance [not in excess of $3,700] and (ii) in combination with reasonable parental or independent student contribution and supplemented by the programs authorized under subparts 2 and 3 of this part, will meet 75 per centum of a student's cost of attendance, unless the institution determines that a greater amount of assistance would better serve the purposes of section 401.

(C) Basic grants made under this subpart shall be known as "Pell Grants".

(2)(A)(i) The amount of the basic grant for a student eligible under this part shall be—

[(I) $1,900 for academic year 1981–1982,
(II) $2,100 for academic year 1982–1983,
(III) $2,300 for academic year 1983–1984,
(IV) $2,500 for academic year 1984–1985, and
(V) $2,600 for academic year 1985–1986,

less an amount equal to the amount determined under section 482 to be the expected family contribution with respect to that student for that year.]

(I) $2,400 for academic year 1987–1988,
(II) $2,600 for academic year 1988–1989,
(III) $2,800 for academic year 1989–1990,
(IV) $3,000 for academic year 1990–1991, and

(V) $3,200 for academic year 1991–1992,
less an amount equal to the amount determined under section 411A to be the expected family contribution with respect to that student for that year.

(ii) In any case where a student attends an institution of higher education on less than a full-time basis during any academic year, the amount of the basic grant to which that student is entitled shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this division. Such schedule of reductions shall be established by regulation and published in the Federal Register not later than January 1, 1981, October 1, 1981, and on October 1 of each succeeding year.

[(B)(i) The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed—

[(I) 50 per centum of the cost of attendance (as defined under section 482(d)) at the institution at which the student is in attendance for that year, when the maximum grant is less than or equal to $1,900;

[(II) 55 per centum of such cost of attendance when the maximum basic grant is more than $1,900 but is less than $2,100;

[(III) 60 per centum of such cost of attendance when the maximum basic grant is at least $2,100 but is less than $2,300;

[(IV) 65 per centum of such cost of attendance when the maximum basic grant is at least $2,300 but is less than $2,600; and

[(V) 70 per centum of such cost of attendance when the maximum basic grant is $2,600.]

(B)(i) The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed 60 per centum of the cost of attendance (in accordance with subsection (c) and section 411A) at the institution at which the student is in attendance for that year.

(ii) No basic grant under this subpart shall exceed the difference between the expected family contribution for a student and the cost of attendance at the institution at which that student is in attendance. If with respect to any student, it is determined that the amount of a basic grant plus the amount of the expected family contribution for that student exceeds the cost of attendance for that year, the amount of the basic grant shall be reduced until the combination of expected family contribution and the amount of the basic grant does not exceed the cost of attendance at such institution.

(iii) No basic grant shall be awarded to a student under this subpart if the income of the family of such student is equal to or is greater than $30,000 after subtracting Federal and State income taxes.

[(iii)] *(iv)* No basic grant shall be awarded to a student under this subpart if the amount of that grant for that student as determined under this paragraph for any academic year is less than $200. Pursuant to criteria established by the Secretary by regulation, the institution of higher education at which a student is in attendance may award a basic grant of less than $200 upon a determination that the amount of the basic grant for that student is less then $200 because of the requirement of division (i) and that, due to exceptional circumstances, this reduced grant should be made in order to enable the student to benefit from postsecondary education.

(3) The period during which a student may receive basic grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance. Nothing in this section shall exclude from eligibility courses of study which are noncredit or remedial in nature which are determined by the institution as necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree.

(b)(1) The Secretary shall from time to time set dates by which students must file applications for basic grants under this subpart.

(2) Each student desiring a basic grant for any year must file an application therefor containing such information and assurances as the Secretary may deem necessary to enable him to carry out his functions and responsibilities under this subpart.

[(3)(A) Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purposes of this section.]

(3)(A) Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purposes of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees. The student may elect to have the institution provide other such goods and services by crediting the student's account.

(B)(i) If, for any period of any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (a)(2)(B)(i), the amount paid with respect to each entitlement shall be—

(I) the full amount for any student whose expected family contribution is $200 or less, or

(II) a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary for this purpose, for any student whose expected family contribution is more than $200.

(ii) Any schedule established by the Secretary for the purpose of division (i) of this subparagraph shall contain a single linear reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that if an entitlement is reduced to less than $100, no payment shall be made.

(4)(A) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 per centum or less, then all of excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

(B) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by more than 15 per centum, then all of such funds shall remain available for making such payments but payments may be made under this division only with respect to entitlements for that fiscal year.

[(5)(A) For any fiscal year ending prior to October 1, 1985, if—

[(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $370,000,000,

[(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

[(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not at least equal $550,000,000, and

[(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year,

no payment may be made in excess of $1,800 on the basis of entitlements established under this subpart in excess of such amount.

[(B) For any fiscal year ending prior to October 1, 1985, if—

[(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $400,000,000,

[(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

[(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not at least equal $550,000,000, and

[(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year,

no payment may be made in excess of $1,899 on the basis of entitlements established under this subpart in excess of such amount.

[(C) For any fiscal year ending prior to October 1, 1985, if—

[(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $440,000,000, [(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

[(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not at least equal $550,000,000, and

[(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year,

no payment may be made in excess of $2,099 on the basis of entitlements established under this subpart in excess of such amount.

[(D) For any fiscal year ending prior to October 1, 1985, if—

[(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $460,000,000,

[(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

[(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not at least equal $550,000,000, and

[(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year,

no payment may be made in excess of $2,299 on the basis of entitlements established under this subpart in excess of such amount.

[(E) For any fiscal year ending prior to October 1, 1985, if—

[(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $480,000,000,

[(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

[(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not equal at least $550,000,000, and

[(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year,

no payment may be made equal to or in excess of $2,500 on the basis of entitlements established under this subpart which are equal to or in excess of such amount.**]**

(c) For the purpose of this subpart, the term "cost of attendance" means—

(1) the student's tuition and uniform compulsory fees at the institution at which the student is in attendance for any award year, plus

(2)(A) an allowance for room and board costs, books, supplies, transportation, and miscellaneous expenses incurred by the student which shall not be greater than $1,800 for a student without dependents residing at home with parents; and

(B) an allowance for room and board costs, books, supplies, transportation, child care, and miscellaneous expenses incurred by the student which shall not be greater than $2,400 for all other students;

except that, if the maximum award under such subpart if less than or greater than $2,400, then the dollar amounts specified in subclauses (A) and (B) of clause (2) of this subsection shall be increased or decreased by an amount equal to the amount by which such maximum award is greater than or less than $2,400, respectively.

[(c)**]** *(d)* Any institution of higher education which enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Secretary.

FAMILY CONTRIBUTION SCHEDULE FOR PELL GRANTS

SEC. 411A. (a) General Rule for Determination of Expected Family Contribution.—(1) The expected family contribution for a dependent student and for independent students with dependents (other than a spouse) shall be determined in accordance with subsection (b), and the expected family contribution for each other independent student shall be determined in accordance with subsection (c).

(2) The following data elements are considered in determining the expected family contribution:

(A) the effective income of (i) the student and the student's spouse; and (ii) the student's parents, in the case of a dependent student;

(B) the number of family members in the household;

(C) the number of family members in the household who are enrolled in, on at least a half-time basis a program of postsecondary education;

(D) the assets of (i) the student and the student's spouse, and (ii) the student's parents, in the case of a dependent student;

(E) the marital status of the student;

(F) the unusual medical expenses of (i) the student's parents, in the case of a dependent student, or (ii) the student and the student's spouse, in the case of an independent student;

(G) the additional expenses incurred (i) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (ii) in the case of an independent student, when both the student and the student's spouse are employed or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of the Internal Revenue Code of 1954; and

(H) the tuition paid (i) in the case of a dependent student, by the student's parents for dependent children, other than the student, who are enrolled in an elementary or secondary school, (ii) in the case of an independent student, by the student or the student's spouse for dependent children who are so enrolled.

(b) Rules for Dependent Students and Independent Students With Dependents (Other Than a Spouse).—(1) For each dependent student, and independent student with dependents, the expected family contribution is equal to—

(A) the sum of (i) the family income contribution amount determined under paragraph (2), (ii) the family asset contribution amount determined under paragraph (3), (iii) the student income contribution amount determined under paragraph (4), and (iv) the student asset contribution amount determined under paragraphs (5) and (6); adjusted for—

(B) the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award year for which Pell Grant assistance is requested in the following manner:

Number of family members enrolled in programs of postsecondary education	*Expected contribution per student from combined contributions*
1	*100 percent of the contribution determined in subparagraph (A).*
2	*70 percent of the contribution determined in subparagraph (A).*
3	*50 percent of the contribution determined in subparagraph (A).*
4 or more	*40 percent of the contribution determined in subparagraph (A).*

(2)(A) The family income contribution amount is determined by deducting from effective family income (i) a family size offset determined in accordance with subparagraph (B), (ii) an unusual expense offset determined in accordance with subparagraph (C), (iii) an employment expense offset determined in accordance with subparagraph (D), and (iv) an educational expense offset determined in accordance with subparagraph (E). If such discretionary income is a negative amount, the family income contribution amount is zero. If such discretionary income is a positive amount the family income contribution amount is determined in accordance with the following chart:

Discretionary income	*Expected contribution*
$0 to $5,000	*11% of discretionary income*
$5,001 to $10,000	*$550, plus 13% of amount over $5,000.*
$10,001 to $15,000	*$1,200, plus 18% of amount over $10,000.*
$15,001 and above	*$2,100, plus 25% of amount over $15,000.*

(B)(i) The family size offset is equal to the amount specified in the following table:

"FAMILY SIZE OFFSETS

Family members	*Amount*
2	*$6,700*
3	*8,100*
4	*10,400*
5	*12,300*
6	*13,800*
7 or more	*13,800 plus $1,800 for each member over 6.*

(ii) In determining family size—

(I) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents;

(II) if the parents are divorced or separated, family members include the parent whose income is included in computing the effective family income and that parent's dependents; and

(III) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subdivision (II) of this division, the new spouse and any dependents of the new spouse if that spouse's income is included in determining effective family income.

(iii) In determining family size in the case of an independent student with dependents—

(I) family members include the student, the student's spouse, and the student's dependents; and

(II) if the student is divorced or separated, family members do not include the spouse (or ex-spouse) but include the student's dependents.

(C)(i) The unusual expense offset is equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective income of the parents. The expenses of both parents are included only if the income of both parents are included in determining effective family income. A stepparent's expenses are included only if the parent's income is included in determing effective family income.

(ii) The unusual expense offset in the case of an independent student with dependents is equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective family income of the independent student with dependents. The expenses of both the student and the student's spouse are included only if the incomes of both are included in determining effective family income.

(D)(i) The employment expense offset is determined as follows:

(I) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such offset is equal to the lesser of $1,500 or 50 percent of the earned income (income earned by work) of the parent with the lesser earned income.

(II) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, such offset is equal to the lesser of $1,500 or 50 percent of the parent's earned income.

(ii) The employment expense offset in the case of the independent student with dependents is determined as follows:

(I) If both the student and the student's spouse were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such offset is equal to the lesser of $1,500 or 50 percent of the earned income (income earned by work) of the spouse with the lesser earned income.

(II) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, such offset is equal to the lesser of $1,500 or 50 percent of the student's earned income.

(E)(i) The educational expense offset is equal to the tuition paid by the student's parents for dependent children, other than the student, enrolled in elementary or secondary school.

(ii) The educational expense offset in the case of an independent student with dependents is equal to the tuition paid by the student and the student's spouse for dependent children enrolled in elementary or secondary school.

(3)(A) The expected family contribution from parental assets is determined in the manner described in subparagraphs (B) through (H).

(B) If the parental assets include a principal place of residence, deduct $25,000 from the net value of the principal place of residence. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

(C) If the parental assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

(D) If the parental assets include farm or business assets, or both, deduct $80,000 from the net value of the farm or business assets, or both. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

(E) If the sum of the farm and business deduction and the deductions in subparagraphs (B) and (C) of this section exceeds $100,000, the farm and business deduction shall be reduced by the amount that that sum exceeds $100,000.

(F)(i) The expected contribution from parental assets equals 5 percent of the total of the results obtained in subparagraphs (B), (C), and (D) of this paragraph.

(ii) If the calculation of discretionary income required by this subsection produces a negative number, the expected contribution from parental assets, calculated under this subparagraph, shall be reduced by the amount of that negative discretionary income. If the subtraction required by the preceding sentence of this division produces a negative number, the amount determined under this division shall be zero.

(G)(i) If the student's parents are separated, or divorced and not remarried, only the assets of the parent whose income is included in computing annual adjusted family income shall be considered.

(ii) If that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's income also is included in computing effective family income, the assets of that parent's spouse shall also be included.

(H) In the computation of family contributions from effective family income and parental assets for any academic year beginning on or after July 1, 1986, the proceeds of a sale of farm or business assets of the family shall be excluded from family income if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

(4)(A) The student income contribution amount is equal to—

(i) 75 percent of the student's discretionary income in the case of a single dependent student;

(ii) 25 percent of the student's discretionary income in the case of a married dependent student; or

(iii) zero if the student's discretionary income is a negative amount.

(B) A student's discretionary income is equal to the effective student income of such student minus—

(i) $3,500 in the case of a single student or $5,300 in the case of a married student, if the amount determined under paragraph (2)(A) for parental discretionary income is a positive amount; or

(ii) if such parental discretionary income is a negative amount, the sum of (I) the amount allowed as an offset under clause (i), plus (II) the amount, if any, by which the result of the subtraction performed under paragraph (3)(A) is less than zero.

(5) The student asset contribution amount is equal to—

(A) 33 percent of net value of the student's assets, in the case of a single dependent student; or

(B) in the case of a married dependent student and spouse, 5 percent of (i) the net asset value, minus (ii) $25,000.

If such value minus such amount (as computed under clause (B) (i) and (ii)) is a negative amount, the student asset contribution amount is zero.

(6)(A) For an independent student with dependents, the expected family asset contribution from the student and the spouse of the student is determined in the amount described in subparagraphs (B) through (F).

(B) If the assets include a principal place of residence, deduct $25,00 from the net value of the principal place of residence. If the subtraction required by the preceding sentence of this subparagraph

produces a negative number, the amount determined under this subparagraph shall be zero.

(C) If the assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

(D)(i) If the assets include farm or business assets, or both, deduct $80,000 from the net value of the farm or business assets, or both. If the subtraction required by the preceding sentence of this division produces a negative number, the amount determined under this division shall be zero.

(ii) If the sum of the farm and business deduction and the deductions in subparagraphs (B) and (C) of this paragraph exceeds $100,000, the farm and business deduction shall be reduced by the amount that that sum exceeds $100,000.

(E)(i) The expected contribution from the assets of the independent student with dependents equals 5 percent of the total of the results obtained in subparagraphs (B), (C), and (D) of this paragraph.

(ii) If the calculation of discretionary income required by this subsection produces a negative number, the expected contribution from the student's (and spouse's) assets, calculated under this subparagraph, shall be reduced by the amount of that negative discretionary income. If the subtraction required by the preceding sentence of this division produces a negative number, the amount determined under this division shall be zero.

(F) If the married independent student with dependents is separated, only assets of the independent student shall be considered.

(7) The provisions of this subsection apply to independent students with dependents (other than a spouse).

(c) Rules for Other Independent Students.—(1) For each independent student, other than an independent student with dependents subject to subsection (b), the expected family contribution is equal to—

(A) the sum of (i) the family income contribution amount determined under paragraph (2), and (ii) the family asset contribution amount determined under paragraph (3), adjusted for—

(B) the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award year for which Pell Grant assistance is requested in the following manner:

Number of family members enrolled in programs of postsecondary education	*Expected contribution per student from combined contributions*
1	*100 percent of the contribution determined in subparagraph (A).*
2	*70 percent of the contribution determined in subparagraph (A).*

(2)(A) The family income contribution amount is determined by deducting from effective family income (i) a family size offset determined in accordance with subparagraph (B), (ii) an unusual expense offset determined in accordance with subparagraph (C), (iii) an employment expense offset determined in accordance with subparagraph (D), and (iv) an educational expense offset determined in ac-

cordance with subparagraph (E). If such discretionary income is a negative amount, the family income contribution amount is zero. If such discretionary income is a positive amount the family income contribution amount is equal to 75 percent of such discretionary income in the case of a single independent student with no dependents or a married independent student without children.

(B)(i) The family size offset is equal to the amount specified in the following table:

"FAMILY SIZE OFFSETS

Family members	*Amount*
1	*$5,300*
2	*$6,700.*

(ii) In determining family size—

(I) family members include the student and the student's spouse; and

(II) if the student is divorced or separated, family members do not include the spouse (or ex-spouse).

(C) The unusual expense offset is equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective family income. The expenses of both the student and the student's spouse are included only if the incomes of both are included in determining effective family income.

(D) The employment expense offset is determined as follows:

(i) If both the student and the student's spouse were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such offset is equal to the lesser of $1,500 or 50 percent of the earned income (income earned by work) of the spouse with the lesser earned income.

(ii) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, such offset is equal to the lesser of $1,500 or 50 percent of the student's earned income.

(3)(A) The family asset contribution amount of an independent student and the student's spouse is equal to 5 percent of (i) the sum of the amounts computed under subparagraph (C) and (D), reduced by (ii) the amount, if any by which discretionary income as computed under paragraph (2)(A), is less than zero. If the result of such subtraction is a negative amount, the family asset contribution amount is zero.

(B) The family asset contribution amount of an independent student is equal to 33 percent of such student's net asset value, reduced by the amount, if any, by which discretionary income as computed under paragraph (2)(A) is less than zero. If such value minus such amount is a negative amount, the family asset contribution amount is zero.

(C) If the assets of an independent student with a spouse include a principal place of residence, deduct $25,000 from the net value of the principal place of residence. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

(D)(i) If the assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction required by the preceding sentence of this division produces a negative number, the amount determined under this division shall be zero.

(ii)(I) If the assets include farm or business assets, deduct $80,000 from the net value of the farm or business assets. If the subtraction required by the preceding sentence of this division produces a negative number, the amount determined under this division shall be zero.

(II) If the sum of the farm and business deduction and the deductions in paragraphs (C) and (D)(i) exceeds $100,000, the farm and business deduction shall be reduced by the amount that that sum exceeds $100,000.

(E) In the computation of family contributions from effective family income and parental assets for any academic year beginning on or after July 1, 1986, the proceeds of a sale of farm or business assets of the family shall be excluded from family income if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

(d) REGULATION AUTHORITY LIMITATIONS.—The Secretary shall promulgate only such regulations as may be necessary to require the use of the most recent and relevant data in determining the expected family contribution under this section. Such regulations may also include procedures for computing family contributions when the student's family or an independent student have encountered extraordinary circumstances.

(e) SPECIAL RULE FOR DISLOCATED WORKERS.—For the purpose of this section the income of a dislocated worker shall be the income for the year for which the determination is made.

(2) For the purpose of this subsection, a dislocated worker is a worker identified pursuant to title III of the Job Training Partnership Act.

(f) DEFINITIONS.—For the purpose of this section, the terms—

(1) "Annual adjusted family income" means the sum received in the year immediately preceding the award year, by the student, the student's spouse, and the student's parents, except excludable income under clause (6) of this subsection, from the following sources subject to the following rules:

(A) Adjusted gross income, as defined in section 62 of the Internal Revenue Code of 1954.

(B) Investment income upon which no Federal income tax is required to be paid, such as the interest on municipal bonds.

(C) Other income, such as child support payments and welfare benefits, upon which no Federal income tax is paid except for—

(i) veterans' benefits paid under chapters 34 and 35 of title 38 of the United States Code;

(ii) Social Security educational benefits received by or on account of the student; and

(iii) Social Security educational benefits paid to the student's parents for the student's siblings that would not be paid if those siblings were not students.

(D) Income from one-half of any veteran's benefits to be paid to the student for the previous year under chapters 34 and 35 of title 38 of the United States Code.

(E) Income from Social Security educational benefits to be paid to the student, or to the student's parents for the student for the previous award year.

(F) Income for a student whose parents are divorced or separated is determined under the following procedures:

(i) Include only the income described in subsection (b) of this section, of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

(ii) If the preceding criterion does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(iii) If neither of the preceding criteria apply, include only the income of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

(G) Income in the case of the death of any parent as follows:

(i) If either of the parents have died, the student shall include only the income of the surviving parent.

(ii) If both parents have died, the student shall not report any parental income.

(H) Income in the case of a parent whose income is taken into account under clause (F) of this section, or a parent who is a widow or widower and whose income is taken into account under clause (E) of this section, has remarried, under the following rule: The income of that parent's spouse shall be included in determining the student's annual adjusted family income if, in the 2 previous award years, the student on July 1 of the award year concerned was not 23 years of age or older and—

(i) has received or will receive financial assistance of more than $750 in either of such award years from that spouse;

(ii) has lived or will live for more than 6 weeks in either of those years in the home of the parent and that spouse; and

(iii) was claimed as a dependent by the parent or legal guardian of the student on the appropriate individual Federal income tax return.

(2) "Assets" means cash on hand, including amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, real estate, income producing property, as well as business assets and farm assets.

(3) "Award year" is the period of time between July 1 of 1 year and June 30 of the following year.

(4) "Business assets" means property that is used in the operation of a trade or business, including real estate, inventories,

buildings, machinery, and other equipment, patents, franchise rights, and copyrights.

(5) Except as otherwise provided, "dependent of the student" means the parents of the student, the student's spouse, any of the student's dependent children, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for title IV aid; and other persons who live with and receive more than one-half of their support from the parents and will continue to receive more than half of their support from the parents during the award year.

(6)(A) The term "excludible income" means the income described in subclauses (B), (C), and (D) of this clause which is excluded for the purpose of determining "annual adjusted family income" under clause (1).

(B) For a Native American student, the annual adjusted family income does not include the income received by the student, the student's spouse, or the student's parents under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, et seq.).

(C) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the effective family income.

(D) The annual adjusted family income does not include any student financial assistance except veterans' or Social Security benefits set forth in clause (1) of this subsection.

(7) "Farm assets" means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, even if some income is derived from incidential sales.

(8) "Medical expenses" means unreimbursed medical and dental expenses that may be deducted under section 213 of the Internal Revenue Code of 1954 and that were paid in the taxable year immediately preceding the award year, unless the student files an application with the Secretary under the provisions of regulations promulgated by the Secretary. In that case, the expenses reported are expenses paid in the award year.

(9) "Net assets" means the current market value at the time of application of the assets included in the definition of 'assets' minus the outstanding liabilities (indebtedness) against the assets.

(10) "State income tax" means the tax on income paid to one or more of the 50 States of the United States or the District of Columbia.

(11) "Effective family income" is the annual adjusted family income minus the Federal taxes and State income taxes paid or payable for the year that adjusted gross income is used in the calculation of the student's Pell Grant.

PROCEDURE WITH RESPECT TO AWARD ERRORS AND OVERPAYMENTS

SEC. 105. Section 411 of the Act (as amended by section 103(1)) is amended by adding at the end thereof the following new subsection:

(e)(1) Each contractor processing applications for awards under this subpart shall, in a timely manner, furnish to the student financial aid administrator at each institution of higher education which a student awarded a basic grant under this subpart is attending an estimate of the amount of the award for each such student. Each such student financial aid administrator shall—

(A) examine and assess the correctness of the estimated amount of the award furnished pursuant to this subsection;

(B) make the award to the student in the correct amount; and

(C) report the corrected amount of the award, if necessary, to such contractor for a confirmation of the correct computation of the amount of the award for each such student.

(2) Whenever a student receives an award under this subpart, due to recalculation errors by the institution of higher education, that is in excess of the amount which the student is entitled to receive under this subpart, the institution of higher education which such student is attending shall pay to the Secretary the amount of such excess.

(3) Each contractor processing applications for awards under this subpart shall for each academic year after academic year 1985-1986 prepare and submit a report to the Secretary on the correctness of the computations of awards under this subpart for the previous academic year for which the contractor is responsible. The Secretary shall transmit the report, together with the comments and recommendations of the Secretary, to the Committee on Appropriations and the Committee on Labor and Human Resources of the Senate and the Committee on Appropriations and the Committee on Education and Labor of the House of Representatives.

SUBPART 2—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

PURPOSE; APPROPRIATIONS AUTHORIZED

SEC. 413A. (a) It is the purpose of this subpart to provide, through institutions of higher education, supplemental grants to assist in making available the benefits of postsecondary education to qualified students who demonstrate financial need in accordance with the provisions of section 482.

[(b)(1) For the purpose of enabling the Secretary to make payments to institutions of higher education which have made agreements with the Secretary in accordance with section 413C(b), for use by such institutions for payments to undergraduate students for the initial academic year of a supplemental grant awarded to them under this subpart, there are authorized to be appropriated $200,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to October 1, 1980, and $350,000,000 for the fiscal year 1981, and for each of the succeeding fiscal years ending prior to October 1, 1985. Funds appropriated pursuant to this paragraph shall be appropriated separate from any funds appropriated pursuant to paragraph (2).

[(2) In addition to the sums authorized to be appropriated by paragraph (1), there are authorized to be appropriated such sums as may be necessary for payment to institutions of higher education for use by such institutions for making continuing supplemental grants under this subpart, except that no appropriation may be made pursuant to this paragraph for any fiscal year beginning more than three years after the last fiscal year for which an appropriation is authorized under paragraph (1). Funds appropriated pursuant to this paragraph shall be appropriated separate from any funds appropriated pursuant to paragraph (1).

[(3) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the second fiscal year succeeding the fiscal year for which they were appropriated.

[(4) For the purposes of this subsection, payment for the first year of a supplemental grant shall not be considered as an initial year payment if the grant was awarded for the continuing education of a student who—

[(A) had been previously awarded a supplemental grant under this subpart (whether by another institution or otherwise), and

[(B) had received payment for any year of that supplemental grant.]

(b)(1) For the purpose of enabling the Secretary to make payments to institutions of higher education which have made agreements with the Secretary in accordance with section 487, for use by such institutions for payments to undergraduate students of a supplemental grant awarded to them under this subpart, there are authorized to be appropriated $433,125,000 of fiscal year 1987, $454,781,000 for fiscal year 1988, $477,520,000 for fiscal year 1989, $501,396,000 for fiscal year 1990, and $526,466,000 for fiscal year 1991.

(2) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions of higher education until the end of the second fiscal year succeeding the fiscal year for which they were appropriated.

AMOUNT AND DURATION OF GRANTS

SEC. 413B. (a)(1) From the funds received by it for such purpose under this subpart, an institution which awards a supplemental grant to a student for an academic year under this subpart shall for each year, pay to that student an amount determined pursuant to paragraph (2).

(2)(A) The amount of the payment to any student pursuant to paragraph (1) shall be equal to the amount determined by the institution, in accordance with the provisions of section 482, to be needed by that student to enable him to pursue a course of study at the institution, except that such amount shall not exceed **[$2,000]** *$3,000.*

(B) If the amount determined under division (i) of subparagraph (A) with respect to a student for any academic year is less than $200, no payment shall be made to that student for that year. For a student enrolled for less than a full academic year, the minimum payment required shall be reduced proportionately.

(b)(1) The period during which a student may receive supplemental grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance.

(2) A supplemental grant awarded under this subpart shall entitle the student to whom it is awarded to payments pursuant to such grant only if the student meets the requirements of section 484, except as provided in section 413C(c).

SELECTION OF RECIPIENTS; AGREEMENTS WITH INSTITUTIONS

SEC. 413C. (a) An individual shall be eligible for the award of a supplemental grant under this subpart by an institution of higher education which, in accordance with section 487, has an agreement with the Secretary applicable to this subpart, if the individual makes application at a time and in a manner consistent with the requirements of the Secretary and that institution, and meets the requirements of section 484.

(b)*(1)* From among individuals who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 487, and within the amount allocated to the institution for that purpose for that year under section 413D(b), select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them.

(2)(A) In carrying out paragraph (1) of this subsection, each institution of higher education shall, in the agreement made under section 487, assure that the selection procedures—

(i) will be designed to award supplemental grants under this subpart, first, to students with exceptional need, and

(ii) will give a priority for supplemental grants under this subpart to students who receive Pell Grants and meet the requirements of section 484.

(B) In determining exceptional need under this paragraph, expected famly contribution of a student may not exceed 50 percent of the cost of attendance at the institution of higher education.

[(c) An eligible institution may use not more than 10 per centum of its allocation for less-than-half-time undergraduate students who are determined by the institution to be in need of such grants and who meet the requirements of section 484, other than the requirement of clause (2) of section 484(a).**]**

APPORTIONMENT AND ALLOCATION OF FUNDS

[SEC. 413D. (a)(1)(A) From 90 per centum of the sums appropriated pursuant to section 413A(b)(1) for any fiscal year, the Secretary shall apportion to each State an amount which bears the same ratio to such sums as the number of undergraduates enrolled full time and the full time equivalent of the number of undergraduates enrolled part time in institutions of higher education in such State bears to the total number of such undergraduates in all States. The remainder of the sums so appropriated shall be apportioned among the States by the Secretary in accordance with equitable criteria which he shall establish and which shall be designed to achieve a distribution of the sums so appropriated among the States which will most effectively carry out the purpose of this subpart, except that where any State's apportionment under the first sentence for a fiscal year is less than its allotment under the first sentence of section 401(b) of this Act for the fiscal year ending June 30, 1972, before he makes any other apportionments under this sentence, the Secretary shall apportion sufficient additional sums to such State under this sentence to make the State's apportionment for that year under this paragraph equal to its allotment for the fiscal year ending June 30, 1972, under such first sentence. Sums apportioned to a State under the preceding sentence shall be consolidated with, and become a part of, its apportionment from the same appropriation under the first sentence of this paragraph.

[(B) If the Secretary determines that the sums apportioned to any State under subparagraph (A) for any fiscal year exceed the aggregate of the amounts that he determines to be required under subsection (b) for that fiscal year for institutions of higher education in that State, the Secretary shall reapportion such excess, from time to time, on such date or dates as he shall fix, to other States in such manner as the Secretary determines will best assist in achieving purposes of this subpart.

[(2) Sums appropriated pursuant to section 413A(b)(2) for any fiscal year shall be apportioned among the States in such manner as the Secretary determines will best achieve the purposes for which such sums were appropriated.

[(b)(1)(A) The Secretary shall, from time to time, set dates before which institutions in any State must file applications for allocation, to such institutions, of supplemental grant funds from the apportionment to that State (including any reapportionment thereto) for any fiscal year pursuant to subsection (a)(1).

[(B)(i) From the sums apportioned (or reapportioned) to any State, the Secretary shall allocate amounts to institutions which have submitted applications pursuant to subparagraph (A).

[(ii) Allocations under division (i) by the Secretary to such institutions shall be made in accordance with a formula which determines institutional need for funds under this subpart by subtracting from 75 per centum of total student expenses the sum of expected family or independent student contributions, awards made under subparts 1 and 3 of this part, and 25 per centum of grants and awards made by the institution from its own resources. In addition, the Secretary, in establishing equitable criteria, shall not issue any regulation which has the effect of penalizing institutions that under existing State law must provide scholarships or grant assistance from their own funds and yet are not free under laws in effect on January 1, 1979, either to select the recipients of such assistance or to adjust the criteria by which the recipients are selected. The formula established under this division shall not result in any institution receiving an amount less than—

[(I) 100 per centum of the amount such institution received and used under this section for fiscal year 1979 in the case of any fiscal year for which the appropriation for this part is less than $400,000,000;

[(II) 80 per centum of such amount in the case of any fiscal year for which such appropriation is at least $400,000,000 but less than $420,000,000;

[(III) 60 per centum of such amount in the case of any fiscal year for which such appropriation is at least $420,000,000 but less than $440,000,000;

[(IV) 40 per centum of such amount in the case of any fiscal year for which such appropriation is at least $440,000,000 but less than $460,000,000; or

[(V) 20 per centum of such amount in the case of any fiscal year for which such appropriation is at least $460,000,000 but less than $480,000,000.

[(2) The Secretary shall, in accordance with regulations, allocate to such institutions in any State, from funds apportioned or reapportioned pursuant to subsection (a)(2), funds to be used as the supplemental grants specified in section 413A(b)(2). Such allocation shall be made in accordance with the formula prescribed by regulation under division (ii) of paragraph (1)(B) of this subsection.]

(B) For the purpose of subparagraph (A) of this paragraph, the term "eligible" means undergraduates who were eligible to receive a supplemental grant under this subpart for the fiscal year preceding the fiscal year for which the determination is made.

(b) If the Secretary determines that the sums apportioned to any institution of higher education under paragraph (2) for any fiscal year exceed the aggregate of the amounts that the Secretary determines to be required by that institution for that fiscal year, the Secretary shall apportion such excess, from time to time, on such date or dates as the Secretary shall fix, to other institutions of higher education in such manner as the Secretary determines will best assist in achieving the purposes of this subpart.

[(3)]*(c)* Each institution receiving allocations under this subsection [from apportionments made to the State under subsection (a)(1) and under subsection (a)(2)] may use its allocations for initial supplemental grants and for continuing supplemental grants in such manner as the institution determines will best achieve the purposes of this subpart.

[(4)]*(d)* Payments shall be made from allocations under this subsection as needed.

Subpart 3—Grants to States for State Student Incentives

PURPOSE; APPROPRIATIONS AUTHORIZED

SEC. 415A. (a) It is the purpose of this subpart to make incentive grants available to the States to assist them in providing grants to eligible students attending institutions of higher education, *and grants to eligible students for campus-based community service work learning study.*

[(b)(1) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1981 and 1982, $150,000,000 for fiscal year 1983, $200,000,000 for fiscal year 1984, and $250,000,000 for fiscal year 1985, for payments to the States for grants to eligible students under this subpart.]

(b)(1) There are authorized to be appropriated $76,000,000 for fiscal year 1987, and for each succeeding fiscal year ending prior to October 1, 1991, for payments to the States for grants to eligible students under this subpart.

(2) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States for the award of student grants under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.

ALLOTMENT AMONG STATES

SEC. 415B. (a)(1)(A) From the sums appropriated pursuant to section 415A(b)(1) for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sums as the number of students in attendance at institutions of higher education in such State bears to the total number of such students in such attendance in all the States, except that no State shall receive less than the State received for fiscal year 1979.

(B) For the purposes of this paragraph, the number of students in attendance at institutions of higher education in a State and in all the States shall be determined by the Secretary for the most recent year for which satisfactory data are available to him.

(2) The amount of any State's allotment under paragraph (1) for any fiscal year which the Secretary determines will not be required for such fiscal year for the State student grant incentive program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under such part for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year for carrying out the State plan; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this part during a year from funds appropriated pursuant to section 415A(b)(1) shall be deemed part of its allotment under paragraph (1) for such year.

(b) Subject to the provisions of section 415E, sums appropriated pursuant to section 415A(b)(2) for any fiscal year shall be allotted among the States in such manner as the Secretary determines will best achieve the purposes for which such sums were appropriated.

(c) The Secretary shall make payments for continuing incentive grants only to those States which continue to meet the requirements of section 415C(b) (1), (2), (3), and (5).

APPLICATIONS FOR STATE STUDENT INCENTIVE GRANT PROGRAMS

SEC. 415C. (a) A State which desires to obtain a payment under this subpart for any fiscal year shall have a State agreement pursuant to section 1203 and shall submit an application therefor through the State agency administering its program of student grants, at such time or times, and containing such information as may be required by, or pursuant to, regulation for the purpose of enabling the Secretary to make the determinations required under this subpart.

(b) From a State's allotment under this subpart for any fiscal year the Secretary is authorized to make payments to such State for paying [50 per centum] *the Federal Share* of the amount of student grants pursuant to a State program which—

(1) is administered by a single State agency under section 1203;

(2) provides that such grants will be in amounts not in excess of $2,000 per academic year for *(A)* attendance on a full-time basis at an institution of higher education *and (B) for campus-based community service work learning study jobs;*

(3) provides for the selection of recipients of such grants on the basis of substantial financial need determined annually on the basis of criteria established by the State and approved by the Secretary;

(4) provides that, effective with respect to any academic year beginning on or after October 1, 1978, all [nonprofit] institutions of higher education in the State are eligible to participate in the State program, except in any State in which participation of [nonprofit] institutions of higher education is in violation of the constitution of the State or in any State in which participation of [nonprofit] institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978;

(5) provides for the payment of the non-Federal portion of such grants from funds supplied by such State which represent an additional expenditure for such year by such State for grants for students attending institutions of higher education over the amount expended by such State for such grants, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart;

(6) provides that institutions of higher education, with the approval of the State agency, may use any proportion of the payments received in any fiscal year for grants to otherwise eligible students who fail to meet the requirement of section 484(a)(2);

(7) provides for State expenditures under such program of an amount not less than the average annual aggregate expenditures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years; and

(8) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his functions under this subpart.

(c) The Federal share for grants described in subsection (b)(2)(A) shall be 50 percent for each fiscal year. The Federal share for grants described in subsection (b)(2)(B) shall be 60 percent for each fiscal year.

[(c)] *(d)* Upon his approval of any application for a payment under this subpart, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefor, the amount of such payment, which (subject to the limits of such allotment or reallotment) shall be equal to the Federal share of the cost of the students incentive grants covered by such application. The Secretary shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as he may determine. The Secretary reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of the student grants with respect to which such reservation was made, and in the event of an upward revision of such estimated cost approved by him he may reserve the Federal share of the added cost only from the applicable allotment (or reallotment) available at the time of such approval.

(e) Each State shall pay the non-Federal share of the cost of the State student incentive grant program authorized by this subpart from State or other public sources.

ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW

SEC. 415D. (a)(1) The Secretary shall not finally disapprove any application for a State program submitted under section 415C, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

(2) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

(A) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

(B) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until he is satisfied that there is no longer any such failure to comply.

(b)(1) If any State is dissatisfied with the Secretary's final action with respect to the approval of its State program submitted under this subpart or with his final action under subsection (a), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the

United States upon certiorari or certification as provided in title 28, United States Code, section 1254.

DEFINITION

SEC. 415E. For the purposes of this subpart, the term "community service" means services, including direct service, planning, and applied research which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, and which—

(1) are designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to the needs of such residents, including but not limited to, such fields as health care, child care, education, literary training, welfare, social services, public safety, crime prevention neighborhood improvement, rural development, and community improvement; and

(2) provide participating students with work-learning opportunities related to their educational or vocational programs or goals.

Subpart 4—Special Programs for Students From Disadvantaged Backgrounds

PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS

SEC. 417A. (a) The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide special services for such students who are pursuing programs of postsecondary education, and to train persons serving or preparing for service in programs and projects so designed.

(b)(1) For the purposes described in subsection (a), the Secretary is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, and contracts with, institutions of higher education, public and private agencies and organizations, and, in exceptional circumstances, secondary schools for planning, developing, or carrying out one or more of the services assisted under this subpart.

(2) In making grants and contracts under this subpart, the Secretary shall consider the prior experience of service delivery under the particular program for which funds are sought by each applicant.

[(c) For the purpose of making grants and contracts under this subpart there are authorized to be appropriated $400,000,000 for fiscal year 1982 and such sums as may be necessary for each of the succeeding fiscal years ending prior to October 1, 1985.]

(c)(1) For the purpose of making grants and contracts under this subpart there are authorized to be appropriated $188,339,000 for fiscal year 1987, $197,756,000 for fiscal year 1988, $207,644,000 for fiscal year 1989, $218,026,000 for fiscal year 1990, and $228,927,000 for fiscal year 1991.

(2) In each fiscal year, $1,000,000 may be available for carrying out programs authorized by section 417D(f).

(d) For the purposes of this subpart—

(1) the term "first generation college student" means a person neither of whose parents completed a baccalaureate degree; and

(2) the term "low-income individual" means an individual from a family whose taxable income for the preceding year did not exceed 150 per centum of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

(e) No individual who is an eligible veteran, as that term is defined by section 1652(a) of title 38, United States Code, shall be deemed ineligbie to participate in any program under this subpart by reason of such individual's age.

TALENT SEARCH

SEC. 417B. (a) The Secretary shall carry out a program to be known as talent search which shall be designed—

(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youth to complete secondary school and to undertake a program of postsecondary education;

(2) to publicize the availability of student financial assistance available to persons who pursue a program of postsecondary education; and

(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to compete such programs, to reenter such programs.

(b) A talent search project assisted under this subpart may include, in addition to the services described in paragraphs (1), (2), and (3) of subsection (a), tutorial services for youths being encouraged to undertake or reenter programs of postsecondary education if such tutorial services are not otherwise available to such youths through a project assisted under this subpart.

(c) In approving applications for talent search projects under this subpart for an fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who either have completed six years of elementary education or are at least twelve years of age but not more than twenty-seven years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417E; and

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417E.

(d) In approving applications for talent search projects under this subpart for any fiscal year, the Secretary shall require assurances that the project will be located in a setting accessible to the persons proposed to be served by the project.

UPWARD BOUND

SEC. 417C. (a) The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond high school.

(b) Any upward bound project assisted under the subpart may provide services such as—

(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

(2) personal counseling;

(3) academic advice and assistance in high school course selection;

(4) tutorial services;

(5) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

(6) activities designed to acquaint youths participating in the project with the range of career options available to them;

(7) instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

(8) on-campus residential programs; and

(9) programs and activities as described in paragraphs (1) through (8) which are specially designed for students of limited English proficiency.

(c) In approving applications for upward bound projects under this subpart for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are just generation college students;

(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be either low-income individuals or be first generation college students;

(3) require that there be determination, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school; and

(4) require that such participants be persons who have completed eight years of elementary education and are at least thirteen years of age but not more than nineteen years of age, unless the imposition of any such limitation would defeat the purposes of this section.

(d) Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during June, July, and August, and not in excess of $40 per month during the remaining period of the year.

[SPECIAL SERVICES FOR DISADVANTAGED STUDENTS]

STUDENT SUPPORT SERVICES

Sec. 417D. (a) The Secretary shall carry out a program to be known as [special services for disadvantaged students (hereinafter referred to as "special services"] *student support services* which shall be designed to provide supportive services to persons participating in the projects.

(b) A [special services] *student support services* project assisted under this subpart may provide services such as—

(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

(2) personal counseling;

(3) academic advice and assistance in course selection;

(4) tutorial services;

(5) exposure to cultural events and academic programs not usually available to disadvantaged students;

(6) activities designed to acquaint students participating in the project with the range of career options available to them;

(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs; [and]

(8) programs and activities as described in paragraphs (1) through (7) which are specially designed for students of limited English proficiency*; and*

(9) specific counseling and support services designed to assist veterans, including each of the activities described in clauses (1) through (7) and the activities described in subsection (e).

(c) In approving applications for [special services] *student support services* projects under this subpart for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

(A) be physically handicapped, or

(B) be low-income individuals who are first generation college students;

(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application either be low-income individuals, first generation college students, or physically handicapped;

(3) require that there be a determination, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school; and

(4) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract.

(d) In approving applications for [special services] *student support services* projects under this subpart for any fiscal year, the Secretary shall require an assurance from the institution which is the recipient of the grant or contract that each student enrolled in the project will receive sufficient financial assistance to meet that student's full financial need.

(e) In approving applications for student support services projects for veterans under this subpart, the Secretary shall require an assurance that the institution which is the recipient of the grant or contract will make an adequate effort—

(1) to maintain a full-time office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provision of educational, vocational, and personal counseling for veterans;

(2) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education (A) under subchapter V of chapter 34 or title 38, United States Code, and (B) in the case of any institution located near a military installation, under subchapter VI of such chapter 34;

(3) to carry out active outreach (with special emphasis on service-connected disabled veterans, other disabled or handicapped veterans, incarcerated veterans, and educationally disadvantaged veterans), recruiting, and counseling activities through the use of funds available under federally assisted work-study programs (with special emphasis on the veteran-student services program under section 1685 of such title 38);

(4) to carry out an active tutorial assistance program (including dissemination of information regarding such program) in order to make maximum use of the benefits available under section 1692 of such title 38; and

(5) to coordinate activities carried out under this part under section 612A of title 28, United States Code, and with the veterans employment and training initiatives authorized under the Job Training Partnership Act and under chapters 41 and 42 of title 38, United States Code, in order to assist in serving the readjustment, rehabilitation, personal counseling, and employment needs of veterans.

(f) The Secretary shall give priority to Student Support Service programs which include an outreach and counseling provision for low income and first generation college and university students in their junior and senior years to encourage application and enrollment in graduate programs excluding professional schools. Such a program may include consortium contracts with graduate centers or programs on campus which provide research assistantships in the summer months for such students in their fields of study. Each student receiving service assistantships under this subsection may be paid a stipend not to exceed $2,400.

EDUCATIONAL OPPORTUNITY CENTERS

SEC. 417E. (a) The Secretary shall carry out a program of paying up to 75 per centum of the cost of establishing and operating programs to be known as educational opportunity centers which shall be designed—

(1) to provide information with respect to financial and academic assistance available for individual's desiring to pursue a program of postsecondary education; and

(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers.

(b) An educational opportunity center assisted under this subpart may provide, in addition to the services described in clauses (1) and (2) of subsection (a), tutorial and counseling services for persons participating in the project if such tutorial and counseling services are not otherwise available through a project assisted under this subpart.

(c) In approving applications for educational opportunity centers under this subpart for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417B; and

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417B.

[STAFF DEVELOPMENT ACTIVITIES

[SEC. 417F. For the purpose of improving the operation of the programs and projects authorized by this subpart, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects. Such training shall include conferences, internships, seminars, and workshops designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.]

OUTREACH AND STAFF DEVELOPMENT ACTIVITIES

SEC. 417F. For the purposes of improving the operation of the special services programs and projects authorized by this subpart, and to expand the outreach of related activities which extend postsecondary educational opportunities to students from disadvantaged backgrounds, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel (including junior and high school counselors) employed in, or preparing for employment in, such programs and projects. Such training shall include—

(1) conferences, internships, seminars, workshops, and training manuals designed to improve the operation of programs and projects assisted under this subpart; and

(2) training institutes to enable junior and senior high schools' counselors and teachers, personnel involved in programs and projects assisted under this subpart, college admissions, personnel, and community agency staffs to counsel more effectively students and adults regarding postsecondary opportunity and financial aid eligibility.

Training under this section shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Grants made under this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.

Subpart 5—Special Programs for Students Whose Families Are Engaged in Migrant and Seasonal Farmwork

SEC. 418A. (a) The Secretary shall maintain and expand existing secondary and postsecondary high school equivalency program and college assistance migrant program projects, which shall be designed to provide services to students of families who are engaged in migrant and seasonal farmwork. The services authorized by this subpart include—

(1) instruction in reading, writing, study skills, mathematics, communication skills, and other subjects necessary for success beyond high school, and in preparation for the examination for a certificate of high school equivalency;

(2) personal and academic counseling;

(3) outreach and recruitment, special admissions, and financial assistance;

(4) tutorial services;

(5) career-oriented work study;

(6) housing support and on-campus residential programs;

(7) activities designed to acquaint youths participating in the project with the range of career options available to them;

(8) exposure to cultural events, academic programs and other activities not usually available to migrant youth; and

(9) other essential supportive services, as needed to ensure the success of eligible migrant and seasonal farmwork students at the secondary and postsecondary levels.

[(b) There is authorized to be appropriated $9,600,000 for the fiscal year 1981, $12,000,000 for the fiscal year 1982, $14,000,000 for the fiscal year 1983, $16,000,000 for the fiscal year 1984, and $18,000,000 for the fiscal year 1985, to carry out the provisions of this subpart.]

(b) There are authorized to be appropriated $7,875,000 for fiscal year 1987, $8,269,000 for fiscal year 1988, $8,682,000 for fiscal year 1989, $9,116,000 for fiscal year 1990, and $9,572,000 for fiscal year 1991, to carry out the provisions of this subpart.

Subpart 6—Federal Merit Scholarships

STATEMENT OF PURPOSE

SEC. 419A. It is the purpose of this subpart to establish a Federal Merit Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise on continued excellence.

DEFINITION

SEC. 419B. For the purpose of this subpart—

(1) the term "secondary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965; and

(2) the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

SCHOLARSHIPS AUTHORIZED

SEC. 419C. (a) The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

(b) Scholarships under this section shall be awarded for a period of one academic year for the first year of study at an institution of higher education.

(c) A student awarded a scholarship under this subpart may attend any institution of higher education.

ALLOCATION AMONG STATES

SEC. 419D. From the sums appropriated pursuant to section 419K for any fiscal year, the Secretary shall allocate to each State having an agreement under section 419E—

(1) $1,500 multiplied by the number of individuals in the State eligible for merit scholarships pursuant to section 419G(b),

plus

(2) $10,000, plus 5 percent of the amount to which a State is eligible under clause (1) of this section.

AGREEMENTS

SEC. 419E. The Secretary shall enter into an agreement with each State desiring to participate in the merit scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that—

(1) the State educational agency will administer the merit scholarship program authorized by this subpart in the State;

(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

(3) the State educational agency will conduct outreach activities to publicize the availability of Federal merit scholarships to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and

moderate-income families have access to the information on the opportunity for full participation in the merit scholarship program authorized by this subpart;

(4) the State educational agency will pay to each individual in the State who is awarded a merit scholarship under this subpart $1,500 at an awards ceremony in accordance with section 419I; and

(5) the State educational agency will use the amount of the allocation described in clause (2) of section 419D for administrative expenses, including the conduct of the awards ceremony required by section 4191.

ELIGIBILITY OF MERIT SCHOLARS

SEC. 419F. (a) Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school or have the equivalent of a certificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education.

(b) Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.

SELECTION OF MERIT SCHOLARS

SEC. 419G. (a) The State educational agency is authorized to establish the criteria for the selection of merit scholars under this subpart.

(b) The State educational agency shall adopt selection procedures which are designed to assure that ten individuals will be selected from among residents of each congressional district in a State (and in the case of the District of Columbia and the Commonwealth of Puerto Rico not to exceed ten individuals will be selected in such district or Commonwealth).

(c) In carrying out its responsibilities under subsections (a) and (b), the State educational agency shall consult with school administrators, school boards, teachers, counselors, and parents.

STIPENDS AND SCHOLARSHIP CONDITIONS

SEC. 419H. (a) Each student awarded a merit scholarship under this subpart shall receive a stipend of $1,500 for the academic year of study for which the scholarship is awarded.

(b) The State educational agency shall establish procedures to assure that a merit scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

AWARDS CEREMONY

SEC. 419I. (a) The State educational agency shall make arrangements to award merit scholarships under this subpart at a place in each State which is convenient to the individuals selected to receive such scholarships. To the extent possible, the award shall be made by Members of the Senate and Members of the House of Representatives (by the Delegate in the case of the District of Columbia and the Resident Commissioner in the case of the Commonwealth of Puerto Rico) who represent the State, Commonwealth, or District, as the case may be, from which the individuals come.

(b) The selection process shall be completed, and the awards made prior to the end of each secondary academic year.

CONSTRUCTION OF NEEDS PROVISIONS

SEC. 419J. Nothing in this subpart, or any other Act, shall be construed to permit the receipt of a merit scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this Act or any other provision of Federal law relating to educational assistance.

AUTHORIZATION OF APPROPRIATIONS

SEC. 419K. There are authorized to be appropriated $8,000,000 for each of fiscal years 1986, [1987, and 1988] *through 1991* to carry out the provisions of this subpart.".

PART B—FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST INSURED LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

STATEMENT OF PURPOSE; NONDISCRIMINATION; AND APPROPRIATIONS AUTHORIZED

SEC. 421. (a)(1) The purpose of this part is to enable the Secretary (1) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 435), (2) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 428(b)(3), to pay a portion of the interest on loans to qualified students which are made by a State under a direct loan program meeting the requirements of section 428(a)(1)(B), or which are insured under this part or under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(C), and (4) to guarantee a portion of each loan insured under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(C).

(2) No institution, bank, credit union, corporation, or other lender who regularly extends, renews, or continues credit or provides insurance under this part shall exclude from receipt or deny the benefits of, or discriminate against any borrower or applicant in obtaining, such credit or insurance on the basis of race, national origin, religion, sex or marital status, age, or handicapped status.

(b) For the purpose of carrying out this part—

(1) there are authorized to be appropriated to the student loan insurance fund (established by section 431) (A) the sum of $1,000,000, and (B) such further sums, if any, as may become necessary for the adequacy of the student loan insurance fund.

(2) there are authorized to be appropriated, for payments under section 428 with respect to interest on student loans and for payments under section 437, such sums for the fiscal year ending June 30, 1966, and succeeding fiscal years, as may be required therefor.

(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 422 for the reserve funds of State and nonprofit private student loan insurance programs.

(4) there are authorized to be appropriated (A) the sum of $12,500,000 for making advances after June 30, 1968, pursuant to sections 422 (a) and (b), and (B) such sums as may be necessary for making advances pursuant to section 422(c), for the reserve funds of State and nonprofit private student loan insurance programs, and

(5) there are authorized to be appropriated such sums as may be necessary for the purpose of paying an administrative cost allowance in accordance with section 428(f) to State and nonprofit institutions and organizations with which the Secretary has an agreement under section 428(b).

Sums appropriated under clauses (1), (2), (4), and (5) of this subsection shall remain available until expended, and sums appropriated under clause (3) of this subsection shall remain available for advances under section 422 until the close of the fiscal year ending June 30, 1968.

(c) For purposes of carrying out this part—

(1) the Secretary shall develop and execute a plan designed to encourage the establishment of student [sic] loan insurance program by each State (whether operated by an agency of the State or by a nonprofit private institution or organization designated by the State) which does not have such a program covered by an agreement pursuant to section 428(b);

(2) the Secretary shall make a report to the Congress within 180 days after the enactment of the Education Amendments of 1976, containing a description of the plan developed according to paragraph (1) accompanied by a timetable for the execution of such plan; and

(3) the Secretary shall make a report to the Congress before June 30, 1977, which shall include—

(A) a description of the activities the Secretary and his designees have undertaken pursuant to paragraph (1),

(B) a description of such State's plans to establish a program meeting the requirements of section 428(b), and

(C) the Secretary's recommendations to the Congress as to what changes in law, or policy would encourage the establishment of such a program in all States without such programs.

ADVANCES FOR RESERVE FUNDS OF STATE AND NONPROFIT PRIVATE LOAN INSURANCE PROGRAMS

SEC. 422. (a)(1) From sums appropriated pursuant to clauses (3) and (4)(A) of section 421(b), the Secretary is authorized to make advances to any State with which he has made an agreement pursuant to section 428(b) for the purpose of helping to establish or strengthen the reserve fund of the student loan insurance program covered by that agreement. If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to section 428(b) in order to enable students in the State to participate in a program of student loan insurance covered by such an agreement. The Secretary may make advances under this subsection both to a State program (with which he has such an agreement) and to one or more nonprofit private institutions or organizations (with which he has such an agreement) in that State if he determines that such advances are necessary in order that students in each eligible institution have access through such institution to a student loan insurance program which meets the requirements of section 428(b)(1).

(2) No advance shall be made after June 30, 1968, unless matched by an equal amount from non-Federal sources. Such equal amount may include the unencumbered non-Federal portion of a reserve fund. As used in the preceding sentence, the term "unencumbered non-Federal portion" means that amount (determined as of the time immediately preceding the making of the advance) of the reserve fund less the greater of (A) the sum of (i) advances made under this section prior to July 1, 1968, (ii) an amount equal to twice the amount of advances made under this section after June 30, 1968, and before the advance for purposes of which the determination is made, and (iii) the proceeds on advances made under this section or (B) any amount which is required to be maintained in such fund pursuant to State law or regulation, or by agreement with lenders, as a reserve against the insurance of outstanding loans.

(3) Advances pursuant to this subsection shall be upon such terms and conditions (including conditions relating to the time or times of payment) consistent with the requirements of section 428(b) as the Secretary determines will best carry out the purposes of this section. Advances made by the Secretary under this subsection shall be repaid within such period as the Secretary may deem to be appropriate in each case in the light of the maturity and solvency of the reserve fund for which the advance was made.

(b)(1) The total of the advances to any State prior to July 1, 1968, pursuant to subsection (a) may not exceed an amount which bears the same ratio to 2½ per centum of $700,000,000 as the population of that State aged eighteen to twenty-two, inclusive, bears to the total population of all the States aged eighteen to twenty-two inclusive. The amount available, however, for advances to any State for each fiscal year ending prior to July 1, 1968, shall not be less than $25,000, and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000 per year) the amount available for advances to each of the remaining States. Advances to nonprofit private institutions and organizations prior to July 1, 1968, pursuant to subsection (a) may be in such amounts as the Secretary determines will best achieve the purposes for which they are made, except that the sum of (1) advances to such institutions and organizations for the benefit of students in any State plus (2) the amounts advanced to such State, may not exceed the maximum amount which may be advanced to that State pursuant to the first two sentences of this subsection.

(2) The total of the advances from the sums appropriated pursuant to clause (4)(A) of section 421(b) to nonprofit private institutions and organizations for the benefit of students in any State and (B) to such State may not exceed an amount which bears the same ratio to such sums as the population of such State aged eighteen to twenty-two, inclusive, bears to the population of all the States aged eighteen to twenty-two inclusive, but such advances may otherwise be in such amounts as the Secretary determines will best achieve the purposes for which they are made. The amount available, however, for advances to any State shall not be less than $25,000 and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000) the amount available for advances to each of the remaining States.

(3) For the purposes of this subsection, the population aged eighteen to twenty-two, inclusive, of each State and of all the States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(c)(1) From sums appropriated pursuant to section 421(b)(4)(B), the Secretary shall advance to each State which has an agreement with the Secretary under section 428(c) with respect to a student loan insurance program, an amount determined in accordance with paragraph (2) of this subsection to be used for the purpose of making payments under the State's insurance obligations under such program.

(2)(A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to 10 per centum of the principal amount of loans made by lenders and insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by (i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date, and (ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a). Notwithstanding subparagraph (A) and the preceding sentence of this subparagraph, but subject to subparagraph (D) of this paragraph, the amount of any advance to a State described in paragraph (5)(A) for the first year of its eligibility under such paragraph, and the amount of any advance to any State described in paragraph (5)(B) for each year of its eligibility under such paragraph, shall not be less than $50,000.

(C) For purposes of subparagraph (B) the unspent balance of the advances made to a State pursuant to subsection (a) shall be that portion of the balance of the State's reserve fund (remaining at the time of the State's first request for an advance pursuant to this subsection) which bears the same ratio to such balance as the Federal advances made and not returned by such State, pursuant to subsection (a), bears to the total of all past contributions to such reserve funds from all sources (other than interest on investment of any portion of the reserve fund) contributed since the date such State executed an agreement pursuant to section 428(b).

(D) If the sums appropriated for any fiscal year for paying the amounts determined under subparagraphs (A) and (B) are not sufficient to pay such amounts in full, then such amounts shall be reduced—

(i) by ratably reducing that portion of the amount allocated to each State which exceeds $50,000; and

(ii) if further reduction is required, by equally reducing the $50,000 minimum allocation of each State.

If additional sums become available for paying such amounts for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(3) The earnings, if any, on any investments of advances received pursuant to this subsection must be used for making payments under the State's insurance obligations.

(4)(A) No repayment of any advances made pursuant to this subsection shall be required until such time as the sum of the advances under this subsection exceeds 20 per centum of the State's outstanding insurance obligation determined in accordance with subparagraph (B) of this paragraph.

(B) For purposes of this paragraph, a State's outstanding insurance obligation shall be determined by subtracting from the total principal amount of loans insured by the State since it entered into an agreement pursuant to section 428(b), the total principal amount of loans insured by such State which have been fully repaid by the borrower, the State itself, or the Secretary, and loans which have been canceled.

(C) At such time as advances pursuant to this subsection reach the level indicated in subparagraph (A) of this paragraph, the amount of any excess shall be paid over to the Secretary in a lump sum at the beginning of each fiscal year for deposit in the fund established by section 431.

(5) Advances pursuant to this subsection shall be made to a State—

(A) in the case of a State which is actively carrying on a program under an agreement pursuant to section 428(b) which was entered into before the date of enactment of this subsection, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the two succeeding calendar years after the date so requested; and

(B) in the case of a State which enters into an agreement pursuant to section 428(b) on or after the date of enactment of this subsection or which is not actively carrying on a program under an agreement pursuant to such section on such date, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the four succeeding calendar years after the date so requested of the advance.

(6)(A) If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances pursuant to this subsection for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to subsection (c), as well as subsection (b), of section 428 and subparagraph (B) of this paragraph in order to enable students in that State to participate in a program of student loan insurance covered by such agreements.

(B) The Secretary may enter into an agreement with private nonprofit institution or organization for purposes of this paragraph under which such institution or organization—

(i) agrees to establish within such State at least one office with sufficient staff to handle written and telephone inquiries from students, eligible lenders, and other persons in the State, to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major eligible lenders within the State,

(ii) agrees that its insurance will not be denied any student because of his choice of eligible institutions or the student's lack of need, and

(iii) certifies that it is neither an eligible institution, nor has any substantial affiliation with an eligible institution.

EFFECTS OF ADEQUATE NON-FEDERAL PROGRAMS

SEC. 423. (a) Except as provided in subsections (b) and (c), the Secretary shall not issue certificates of insurance under section 429 to lenders in a State if he determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 428(b).

(b) The Secretary may issue certificates of insurance under section 429 to a lender in a State—

(1) for insurance of a loan made to a student borrower who does not, by reason of his residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 422 for the benefit of students in such State),

(2) for insurance of all the loans made to student borrowers by a lender who satisfies the Secretary that, by reason of the residence of such borrowers, such lender will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loans such lender intends to make to such student borrowers, or

(3) under such circumstances as may be approved by the State or nonprofit private institution or organization in such State with which the Secretary has an agreement under section 428(b), for the insurance of a loan to a borrower for whom such lender previously was issued such a certificate if the loan covered by such certificate is not yet repaid.

(c) The Secretary shall not deny, because of any provision of this section, a certificate of insurance under section 429 to any eligible lender which is an eligible institution if such lender has previously executed an agreement with the Secretary pursuant to section 433 of this part, unless the Secretary determines, based upon studies and surveys satisfactory to him, that access to a loan by all eligible students who make an active and diligent effort to obtain a loan under this part will be otherwise available. In order to carry out the provisions of the preceding sentence the Secretary shall periodically assess the availability of loans to eligible students through studies and surveys undertaken by him and through review of properly conducted studies and surveys made available to him.

SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM

SEC. 424. (a) The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 435) to students covered by Federal loan insurance under this part shall not exceed \$1,400,000,000 for the fiscal year ending June 30, 1972, \$1,600,000,000 for the fiscal year ending June 30, 1973, \$1,800,000,000 for the fiscal year ending June 30, 1974, \$2,000,000,000 for each of the fiscal years ending June 30, 1975, and 1976, and \$2,000,000,000 for the period from July 1, 1976, to September 30, 1976, and for each of the succeeding fiscal years ending prior to October 1, [1986] *1992.* Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, [1990] *1996.*

(b) The Secretary may, if he finds it necessary to do so in order to assure an equitable distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

LIMITATIONS ON INDIVIDUAL, FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE

SEC. 425. (a)(1) The total of loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this part may not exceed [\$2,500 in the case of a student who has not successfully completed a program of undergraduate education, or \$5,000] *\$3,000 in the case of a student who has not successfully completed 2 years or its equivalent of a program of undergraduate education, \$4,000 in the case of a student who has completed 2 years or its equivalent of a program of undergraduate education, but who has not completed such program, or \$7,500* in the case of a graduate or professional student (as defined in regulations of the Secretary), except—

(A) that in the case of loans to a student for his first academic year of a program of postsecondary education, and who has not previously enrolled in such a program, which are made by an eligible lender as described in section 435(g)(1)(D) or which are made or originated (as defined in section 433(b)) by an eligible institution, the total of such loans may not exceed the lesser [$2,500] *$3,000* or 50 per centum of the estimated cost of attendance (calculated in accordance with the provisions of section 428(a)(2)(B)(i)),

(B) that in the case of a loan made or originated (as defined in section 433(b)) by an eligible institution which is made to such a first-year student, the loan may exceed [$1,500] *$2,000* only if it is to be disbursed in two or more installments none of which exceeds one-half of the loan, with the interval between the first and second of such installments being not less than one-third of the period of enrollment for which the student received the loan, and

(C) in cases where the Secretary determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high cost of education.

The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will to be made in any year in excess of the annual limit. For the purpose of clause (B), all loans made within any period of 90 days shall be considered a single loan.

(2) The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed [$12,500] *$18,000* in the case of any student who has not successfully completed a program of undergraduate education, and [$25,000] *$55,500* in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a State or nonprofit institution or organization with which the Secretary has an agreement under section 428(b), made to such person before he became a graduate or professional student), except that the Secretary may increase the limit applicable to graduate or professional students who ar pursuing programs which the Secretary determines are exceptionally expensive.

(b)(1)(A) Except as provided in subparagraph (B), the insurance liability on any loan insured by the Secretary under this part shall be 100 per centum of the unpaid balance of the principal amount of the loan plus interest, except that—

(i) if, for any fiscal year, the total amount of payments under section 430 by the Seretary to any eligible lender as described in section 435(g)(1)(D) exceeds 5 per centum of the sum of the loans made by such lender which are insured by the Secretary and which were in repayment at the end of the preceding fiscal year, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C) shall be equal to 90 per centum of the amount of such portion;

(ii) if, for any fiscal year, the total amount of such payments to such a lender exceeds 9 per centum of such sum, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (c), shall be equal to 80 per centum of the amount of such portion.

(B) Notwithstanding subparagraph (A), the provisions of clauses (i) and (ii) shall not apply to an eligible lender as described in section 435(g)(1)(D) for the fiscal year in which usch lender begins to carry on a loan program insured by the Secretary, or for any of the four succeeding fiscal years.

(C) The applicable date with respect to a loan made by an eligible lender as described in section 435(g)(1)(D) shall be—

(i) the 90th day after the ajourunment of the next regular session of the appropriate State legislature which convenes after the date of enactment of the Education Amendments of 1967, or

(ii) if the primary source of lending capital for such lender is derived from the sale of bonds, and the constitution of the appropriate State prohibits a pledge of such State's credit as security against such bonds, the day which is one year after such 90th day.

(2) For the purposes of this subsection, the sum of the loans made by a lender which are insured by the Secretary and which are in repayment shall be the original principal amount of loans made by such lender which are insured by the Secretary reduced by (A) the amount the Secretary has been required to pay to discharge his insurance obligations under this part, (B) the original principal amount of loans insured by the Secretary which have been fully repaid, (C) the original principal amount insured on those loans for which payment of first installment of principal has not become due pursuant to section 427(a)(2)(B) or such first installment need not be paid pursuant to section 427(a)(2) (C), and (D) the original principal amount of loans repaid by the Secretary under section 437.

(3) For the purposes of this subsection, payments by the Secretary under section 430 to an assignee of the lender with respect to a loan shall be deemed payments made to such lender.

(4) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 430 or 437 of this part.

SOURCE OF FUNDS

SEC. Loans made by eligible lenders in accordance with this part shall be insurable by the Commissioner whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS

SEC. 427. (a) [A loan] *except as provided in section 428c, a loan* by an eligible lender shall be insurable by the Secretary under the provisions of this part only if—

(1) made to a student who (A) is an eligible student under section 484, and (B) has agreed to notify promptly the holder of the loan concerning any change of address; and

(2) evidenced by a note or other written agreement which—

(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, endorsement may be required.

(B) provides for repayment (except as provided in subsection (c)) of the principal amount of the loan in installments over a period of not less than five years (unless sooner repaid or unless the student, during the six months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than ten years beginning six months after the month in which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, except—

(i) as provided in clause (C) below,

[(ii) that the period of the loan may not exceed fifteen years from the execution of the note or written agreement evidencing it,]

[(iii)]*(ii)* that the note or other written instrument may contain such a provision relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time of the loan is made, [and]

[(iv)]*(iii)* that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, except that in the event a student has requested and obtained a repayment period of less than five years, he may at any time prior to the total repayment of the loan, have the repayment period extended so that the total repayment period is not less than five years, *and*

(iv) upon the request of the borrower, the lender shall provide a revised repayment schedule which is based upon graduated and income-sensitive repayments,

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period (i) during which the borrower is pursuing a full-time course of study at an "eligible institution", is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary, (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States or is an officer in the Commissioned Corps of the Public Health Service, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973, (v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; (iv) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled; or (viii) during a single period, not in excess of twelve months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment, and that any such period shall not be included in determining the ten-year period [or the fifteen-year period] provided in clause (B) above,

(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b)) on a national, regional, or other appropriate basis, which interest shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest has so accrued during that period may be added on that date to the principal,

(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Secretary under this part, and that the lender will enter into such agreements with the Secretary as may be necessary for the purposes of section 437,

(F) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan,

(G) provides that, in the case of each loan insured by the program, the eligible institution attended by the borrower at the time of the loan will be notified of such insurance and the name of the lender making the loan and such notification will be made either by (i) the prompt transmittal of such information to the institution by the insurer or the lender, or (ii) a requirement of the insurer, as a condition of its insurance, that the lender shall transmit any checks for the proceeds of such loan directly to the eligible institution for delivery to the borrower,

(H)(i) contains a notice of the system, of disclosure of information concerning such loan to credit bureau organizations under section 430(b)(2) and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations,

[(I) the funds borrowed by a student are disbursed by check payable to the order and requiring the endorsement of such student, and]

(I) the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subparagraph shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check, and

(J) contains such other terms and conditions, consistent with the provisions of this part and with the regulations issued by the Secretary pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan.

(b) Except as provided in section 427A, no maximum rate of interest prescribed and defined by the Secretary for the purposes of clause (2)(D) of subsection (a) may exceed 7 per centum per annum on the unpaid principal balance of the loan.

(c) The total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less, except that in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less.

APPLICABLE INTEREST RATES

SEC. 427A. (a) *RATES TO BE CONSISTENT WITH BORROWERS ENTIRE DEBT.*—With respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, the rate of interest applicable to any borrower shall—

(1) not exceed 7 per centum per annum on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has an outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, for which the interest rate does not exceed 7 per centum;

(2) except as provided in paragraph (3), be 9 per centum per annum on the unpaid principal balance of the loan in the case

of any borrower who, on the date of entering into the note or other written evidence of that loan, has no outstanding balance of principal or interest on any loan described in paragraph (1) or any loan for which the interest rate is determined under paragraph (1); or

(3) be 8 per centum per annum on the unpaid principal balance of the loan for a loan to cover the cost of education for any period of enrollment beginning on or after a date which is three months after a determination made under subsection (b) in the case of any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan for which the interest rate is determined under paragraph (1) or (2) of this subsection.

(b) *REDUCTION FOR CERTAIN BORROWERS AFTER DECLINE IN CERTAIN RATES.*—If for any twelve-month period beginning on or after January 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such twelve-month period is equal to or less than 9 per centum, the interest rate for loans under this part shall be the rate prescribed in subsection (a)(3) for borrowers described in such subsection.

(c)(1) *RATES FOR SUPPLEMENTAL AND PARENTAL LOANS.*—Except as otherwise provided in this subsection, the applicable rate of interest on loans made pursuant to section 428B on or after October 1, 1981, shall be 14 per centum per annum on the unpaid principal balance of the loan.

(2) If for any twelve-month period beginning on or after October 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such twelve-month period is equal to or less than 14 per centum, the applicable rate of interest for loans made pursuant to section 428B on and after the first day of the first month beginning after the date of publication of such determination shall be 12 per centum per annum on the unpaid principal balance of the loan.

(3) If for any twelve-month period beginning on or after the date of publication of a determination under paragraph (2), the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such twelve-month period exceeds 14 per centum, the applicable rate of interest for loans made pursuant to section 428B on and after the first day of the first month beginning after the date of publication of that determination under this paragraph shall be 14 per centum per annum on the unpaid principal balance of the loan.

(d) *INTEREST RATES FOR NEW BORROWERS AFTER JUNE* 30, 1986.—*Notwithstanding subsections (a) and (b) of this section, with respect to any loan (other than a loan made pursuant to section 428B and section 428C) to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1986, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan* *made, insured, or guaranteed under this part, the applicable rate of interest shall be—*

(1) 8 percent per year on the unpaid principal balance of the loan during the period beginning on the date of the disbursement of the loan and ending 4 years after the commencement of repayment; and

(2) 10 percent per year on the unpaid principal balance of the loan during the remainder of the repayment period.

[(d)**]***(e) LESSER LOAN RATES PERMITTED.*—Nothing in this section shall be construed to prohibit a lender from charging a borrower interest at a rate less than the rate which is applicable under this part.

[(e)**]***(f) DEFINITIONS.*—For the purposes of subsection (a) of this section—

(1) the term "period of instruction" shall, at the discretion of the lender, be any academic year, semester, trimester, quarter, or other academic period; or shall be the period for which the loan is made as determined by the institution of higher education; and

(2) the term "period of enrollment" shall be the period for which the loan is made as determined by the institution of higher education and shall coincide with academic terms such as academic year, semester, trimester, quarter, or other academic period as defined by such institution.

FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS

SEC. 428. (a)(1) Each student who has received a loan for study at an eligible institution—

(A) which is insured by the Secretary under this part;

(B) which was made under a State student loan program (meeting criteria prescribed by the Secretary), and which was contracted for, and paid to the student, within the period specified by paragraph (5); or

(C) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than sixty days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) at an eligible institution, or

(ii) in the case of a loan insured after June 30, 1967, is insured under a program covered by an agreement made pursuant to subsection (b),

shall be entitled to have paid on his behalf and for his account to the holder of the loan a portion of the interest on such loan under circumstances described in paragraph (2).

(2)(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which the student is in attendance, which—

(I) sets forth such student's estimated cost of attendance; and

(II) sets forth such student's estimated financial assistance; and

(ii) meet the requirements of subparagraph (B).

[(B) For the purposes of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the adjusted gross income of such student's family—

[(i) is less than or equal to $30,000; or

[(ii) is greater than $30,000, and the eligible institution has provided the lender with a statement evidencing a determination of need for a loan and the amount of such need, subject to the provisions of subparagraph (F).]

(B) For the purpose of clause (ii) of subparagraph (A) a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has provided the lender with a statement evidencing a determination of need for a loan and the amount of such need.

(C) For the purpose of paragraph (1) and this paragraph—

(i) a student's estimated cost of attendance means, for the period for which the loan is sought, the tuition and fees applicable to such student together with the institution's estimate of other expenses reasonably related to attendance at such institution, including, but not limited to, the cost of room and board, reasonable transportation costs, and costs for books and supplies;

(ii) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subparts 1 and 2 of part A, and parts C and E of this title, any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student, and any amount paid the student under chapters 32, 34, and 35 of title 38, United States Code, plus other scholarship, grant, or loan assistance; and

(iii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B)(ii) with respect to a student shall be calculated by subtracting from the estimated cost of attendance at the eligible institution the total of the expected family contribution with respect to such student plus any estimated financial assistance reasonably available to such student.

(D) The Secretary shall submit a separate schedule of expected family contributions to the President of the Senate and the Speaker of the House of Representatives not later than the submission of, and in accordance with the procedures for, the proposed schedule of expected family contributions under section 482, except as provided in subparagraph (E).

(E)(i) The initial separate schedule required by subparagraph (D) shall—

(I) be submitted not later than August 15, 1981;

(II) be effective on October 1, 1981, except as is otherwise provided in division (ii);

(III) not be the subject of public comment otherwise required by section 482(a)(1) of this Act or section 431 of the General Education Provisions Act; and

(IV) be subject to amendment prior to the next regular submission of a separate schedule as required by subparagraph (D) only in accordance with division (iv) of this subparagraph.

(ii) If either the Senate or the House of Representatives adopts, prior to October 1, 1981, a resolution of disapproval of the schedule submitted under division (i), such schedule shall not take effect. If such schedule is so disapproved, or if the Secretary does not submit such a schedule by August 15, 1981, then beginning on October 1, 1981, the expected family contribution for purposes of this paragraph shall be determined by the eligible institution in accordance with regulations promulgated under section 411 or 413B, as in effect for the period beginning on July 1, 1981, governing the determination of expected family contribution.

(iii) The method of determining the expected family contribution established under this subparagraph shall remain in effect until superseded by the taking effect of the next schedule submitted in accordance with subparagraph (D) or amended in accordance with division (iv) of this subparagraph.

(iv) Any amendment promulgated by the Secretary to the initial separate schedule established under this subparagraph shall be transmitted to the President of the Senate and the Speaker of the House of Representatives not later than the time of its publication in the Federal Register. If either the Senate or House of Representatives adopts, within 30 legislative days following the publication of such amendment, a resolution of disapproval of such amendment, such amendment shall not take effect.

[(F) For the purpose of a student described in clause (ii) of subparagraph (B), the amount of the loan which is qualified for a payment under paragraph (1) is the amount of the need of such student as determined by the eligible institution, except that, if the amount of need is equal to or more than $500, but is less than $1,000, the amount of the loan which is qualified for such payment shall be $1,000.]

(F)(i) For the purpose of subparagraph (B), the amount of the loan which is qualified for a payment under paragraph (1) is the amount of the need of such student as determined by the eligible institution.

(ii) An eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, provide a statement which permits the student to receive any loan under this part in excess of the maximum amount applicable to such loan.

(G) For the purpose of subparagraphs (B) and (C) of this paragraph, any loan obtained by a student or a parent under section 428B of this Act or under any State-sponsored or private loan program for an academic year for which the determination is made may be used to offset the expected family contribution of the student for that year

(H) Except as provided in subparagraph (F), an eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, refuse to provide to any eligible lender which has

an agreement under subsection (b) of this section with any State or nonprofit private institution or organization, a statement which permits a student to receive any loan under this part.

(3)(A) Except as provided in paragraph (8) and subject to section 438(c), the portion of the interest on a loan which a student is entitled to have paid on his behalf and for his account to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan which accrues prior to the beginning of the repayment period of the loan, or which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (b)(1)(M) of this section or in section 427(a)(2)(C); but, except as provided in paragraph (8) of this subsection, such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his behalf for that period under any State or private loan insurance program. The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Secretary the portion of interest which has been so determined. The Secretary shall pay this portion of the interest to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations in force when the applicable agreement entered into pursuant to subsection (b) was made, or, if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

(B) If (i) a State student loan insurance program is covered by an agreement under subsection (b), (ii) a statute of such State limits the interest rate on loans insured by such program to a rate which is less than the applicable interest rate under this part, and (iii) the Secretary determines that section 428(d) does not make such statutory limitation inapplicable and that such statutory limitation threatens to impede the carrying out of the purposes of this part, then he may pay an administrative cost allowance to the holder of each loan which is insured under such program and which is made during the period beginning on the sixtieth day after the date of enactment of the Higher Education Amendments of 1968 and ending 120 days after the adjournment of such State's first regular legislative session which adjourns after January 1, 1969. Such administrative cost allowance shall be paid over the term of the loan in an amount per annum (determined by the Secretary) which shall not exceed 1 per centum of the unpaid principal balance of the loan.

(4) Each holder of a loan with respect to which payments of interest are required to be made by the Secretary shall submit to the Secretary, at such time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which he must make with respect to that loan.

(5) The period referred to in subparagraphs (B) and (C) of paragraph (1) of this subsection shall begin on the date of enactment of this Act and end at the close of September 30, [1986,] *1992,* except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his education program, such period shall end at the close of September 30, [1990.] *1996.*

(6) No payment may be made under this section with respect to the interest on a loan made from a student loan fund established under title II of the National Defense Education Act of 1959 or part E of this title.

(7) Nothing in this or any other Act shall be construed to prohibit or require, unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

(8)(A) In the case of any eligible lender (other than an eligible institution or an agency or instrumentality of a State), which is approved by the Secretary pursuant to subparagraph (B) of this paragraph for the purpose of authorizing multiple disbursements and which enters into a binding agreement with a student to make a loan—

(i) for which the student is entitled to have a portion of the interest paid on his behalf under this section, and

(ii) the proceeds of which loan are to be paid to the student in multiple disbursements over the period of enrollment for which the loan is made, but not to exceed twelve months,

the amount of the interest payment and the amount of any special allowance payment to be paid under section 438 shall be determined as if the entire amount to be made available for that period of enrollment had been disbursed on the date on which the first installment thereof was disbursed, and any increase in the rate of interest on the loan attributable to such multiple disbursements shall not be deemed to violate any provision of this part relating to the maximum rate of interest on such loan. The provisions of this paragraph shall apply only in the case of loans paid in multiple disbursements, in accordance with regulations of the Secretary, based on the need of the student for the proceeds of such loan over the period of enrollment for which the loan is made.

(B) The Secretary may approve an eligible lender for the purposes of this paragraph if he determines—

(i) that such lender is making or will be making a substantial volume of loans on which an interest subsidy is payable under this section, and

(ii) that such lender has sufficient experience and administrative capability in processing such loans to enable the lender to make such multiple disbursements in accordance with regulations issued by the Secretary under this subparagraph.

(C) If the Secretary has not promulgated regulations pursuant to this paragraph on or before September 30, 1979, all eligible lenders (other than those excluded under subparagraph (A)) shall be deemed approved by the Secretary for purposes of this paragraph.

(b)(1) Any State or any nonprofit private institution or organization may enter into an agreement with the Secretary for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) if the Secretary determines that the student loan insurance program—

(A) authorizes the insurance in any academic year or its equivalent (as determined under regulations of the Secretary) if not less than $1,000 nor more than [$2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000] *$3,000 in the case of a student who has not successfully completed 2 years or its equivalent of a program of undergraduate education, $4,000 in the case of a student who has completed 2 years or its equivalent of a program of undergraduate education, but who has not completed such program, or $7,500,* in the case of a graduate or professional student (as defined in regulations of the Secretary), except—

(i) that the program may not authorize the insurance of loans which are made by an eligible lender as described in section 435(g)(D) or which are made or originated (as defined in section 433(b)) by an eligible institution to a student for his first academic year of a program of postsecondary education, and who has not previously enrolled in such a program, in an amount in excess of the lesser of [$2,500] *$3,000* or 50 per centum of the estimated cost of attendance (calculated in accordance with section 428(a)(2)(C)(i)),

(ii) that the program may not authorize the insurance of a loan in excess of [$1,500] *$2,000* for an academic year which is made or originated (as defined in section 433(b)) by an eligible institution, and is made to such a first-year student unless the loan is to be disbursed in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second of such installments being not less than one-third of the period of enrollment for which the student received the loan, and

(iii) in cases where the Secretary determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education,

but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit, and all loans issued within any period of 90 days shall be considered as a single loan for purposes of division (ii);

(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed [$12,500] *$18,000* in the case of any student who has not successfully completed a program of undergraduate education, and [$25,000] *$55,500* in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a State or nonprofit institution or organization with which the Secretary has an agreement under section 428(b), made to such person before he became a graduate or professional student), except that the Secretary may increase the limit applicable to graduate or professional students who are pursuing programs which the Secretary determines are exceptionally expensive;

(C) authorizes the insurance of loans to any individual student for at least six academic years of study or their equivalent (as determined under regulations of the Secretary);

(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) except as provided in subparagraph (M) of this paragraph, the period of any insured loan may not exceed fifteen years from the date of execution of the note or other written evidence of the loan, and (iii) the note or other written evidence of any loan, may contain such provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed;

(E) subject to subparagraphs (D) and (L) of this paragraph and except as provided by subparagraph (M) of this paragraph, provides that repayment of loans shall be in installments over a period of not less than five years (unless the student, during the six months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than ten years beginning six months after the month in which the student ceases to pursue a full-time course of study at an eligible institution, except—

(i) that, if the program provides for the insurance of loans for part-time study of eligible institutions, the program shall provide that such repayment period shall begin not earlier than six months after the month in which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution;

(ii) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload, as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, except that in the event a student has requested and obtained a repayment period of less than five years, he may at any time prior to the total repayment of the loan have the repayment period extended so that the total repayment period is not less than five years;

(F) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess of 7 per centum per annum on the unpaid principal balance of the loan (exclusive of any premium for insurance which may be passed on to the borrower), except as otherwise required by section 427A;

(G) insures not less than 80 per centum of the unpaid principal of loans insured under the programs;

[(H) does not provide for collection of an excessive insurance premium, and insures that the proceeds of the premium will not be used for incentive payments to lenders;]

(H) provides for collection of an insurance premium equal to not more than 3 percent per loan for the first year of the loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and insures that the proceeds of the premium will not be used for incentive payments to lenders;

(I) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under section 428(a) (1) and (2) except in the case of loans made by an instrumentality of a State or eligible institution;

(J) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution;

(K) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under supervision of a single State agency;

(L) *i* provides that the total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less, unless the borrower and the lender otherwise agree, except that, in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less;

(ii) upon request of the borrower, the lender shall provide a revised repayment schedule which is based upon graduated and income-sensitive repayments; and

(iii) provides that the total payments by a borrower for a monthly or other similar payment period with respect to the aggregate of all loans held by the lender may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution, is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States or is an officer in the Commissioned Corps of the Public Health Service,

(iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973, (v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled, or (viii) during a single period, not in excess of twelve months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment;

(N) provides that in the case of each loan insured by the program that the eligible institution attended by the borrower at the time of the loan will be notified of such insurance and the name of the lender making the loan, and such notification will be made either by (i) the prompt transmittal of such information to the institution by the insurer or the lender, or (ii) a requirement of the insurer, as a condition of its insurance, that the lender shall transmit any checks for the proceeds of such loan directly to the eligible institution for delivery to the borrower;

⟦(O) provides that funds borrowed by a student are disbursed by check payable to the order and requiring the endorsement of such student; and⟧

(O) provides that funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subparagraph shall be interpreted to allow the Secretary to require checks to be made copayable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by checks; and

(P) requires the borrower to promptly notify the holder of the loan concerning any change of address.

(2) Such an agreement shall—

(A) provide that the holder of any such loan will be required to submit to the Secretary, at such time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which he must make with respect to that loan;

(B) include such other provisions as may be necessary to protect the financial interests of the United States and promote the purposes of this part, including such provisions as may be necessary for the purpose of section 437, and as are agreed to by the Secretary and the State or nonprofit private organization or institution, as the case may be; [and]

(C) provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out his function under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports; *and*

(D) provide for—

(i) conducting, except as provided in clause (ii), financial and compliance audits of the guaranty agency at least once every two years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a guaranty program of a State which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period of time covered by such audit.

(3) Each State and nonprofit private institution or organization shall not–

(A) offer, directly or indirectly, premiums, payments, or other inducements to any educational institution or its employees in order to secure applicants for loans under this part,

(B) conduct unsolicited mailings to students enrolled in secondary school of student loan application forms, or

(C) conduct fraudulent or misleading advertising concerning loan availability.

(4) For the purpose of paragraph (1)(M) of this subsection, the Secretary shall approve any course of study at a foreign university that is accepted for the completion of a recognized international fellowship program by the administrator of such a program.

(c)(1)(A) The Secretary may enter into a guaranty agreement with any State or any nonprofit private institution or organization with which he has an agreement pursuant to subsection (b), whereby the Secretary shall undertake to reimburse it, under such terms and conditions as he may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any insured loan[.] *including the administrative costs of supplemental preclaim assistance for default prevention as defined in paragraph (6)(C).* Except as provided in subparagraph (B) of this paragraph and in paragraph (7), the amount to be paid a State or nonprofit private institution or organization as reimbursement under this subsection shall be equal to 80 per centum of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program.

(B) Any State or any nonprofit private institution or organization which has entered into a supplementary agreement under section 428A of this Act whereby the Secretary agrees to reimburse the State or nonprofit private institution or organization, under such terms and conditions as he may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any such insured loan in an amount equal to 100 per centum of the amount expended by it in the discharge of its insurance obligation incurred under its loan insurance program, except that—

(i) if, for any fiscal year, the amount of such reimbursement payments by the Secretary under this subsection exceeds 5 per centum of the loans which are insured by such institution or organization under such program and which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to **[**90 per centum**]** *80 per centum* of the amount of such excess; and

(ii) if, for any fiscal year, the amount of such reimbursement payments, exceed 9 per centum of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to **[**80 per centum**]** *70 per centum* of the amount of such excess.

(C) For purposes of this subsection, the amount of loans of a State or nonprofit private institution or organization which are in repayment shall be the original principal amount of loans made by a lender which are insured by such an institution or organization reduced by (i) the amount the insurer has been required to pay to discharge its insurance obligations under this part, (ii) the original principal amount of loans insured by it which have been fully repaid, and (iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to section 428(b)(1)(E) or such first installment need not be paid pursuant to section 428(b)(1)(M).

(2) The guaranty agreement—

(A) shall set forth such adminstrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to insure proper and efficient administration of the loan insurance program, and to assure that due diligence will be exercised in the collection of loans insured under the program;

(B) shall provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out his functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(C) shall set forth adequate assurance that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Secretary pursuant to this subsection, the undertaking of the Secretary under the guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

(D) shall provide that if, after the Secretary has made payment under the guaranty agreement purusant to paragraph (1) of this subsection with respect to any loan, any payments are made indischarge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Secretary), there shall be paid over to the Secretary (for deposit in the fund established by section 431) such proportion of the amounts of such payments as is determined (in accordance with paragraph (6)) to represent his equitable share thereof, but shall provide for subrogation of the United States to the rights of any insurance beneficiary only to the extent required for purposes of paragraph (8): *Provided,* That, except as the Secretary may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan;

(E) shall set forth adequate assurance that an amount equal to each payment made under paragraph (1) will be promptly deposited in or credited to the accounts maintained for purposes of section 422(c); and

(F) may include such other provisions as may be necessary to promote the purposes of this part.

(3) To the extent provided in regulations of the Secretary, a guaranty agreement under this subsection may contain provisions which permit such forebearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer.

(4) For purposes of this subsection, the terms "insurance beneficiary" and "default" shall have the meanings assighed to them by section 430(e).

(5) In the case of any guaranty agreement with a State or nonprofit private institution or organization with which the Secretary has an agreement pursuant to subsection (b) of this section, the Secretary may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such State, institution or organization and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

(6)(A) For the purpose of paragraph (2)(D) and for the purpose of section 428A(b)(5) the Secretary's equitable share of payments made by the borrower shall be that portion of the payments remaining after the State or the nonprofit private institution or organization with which the Secretary has an agreement under this subsection has deducted from such payments (i) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan and (ii) an amount equal to the administrative costs of collection of loans reimbursed under this subsection, the administrative costs of preclaims assistance for default prevention, *The administrative costs of supplemental preclaims assistance for default prevention* and the administrative costs of monitoring the enrollment and repayment status of students (as such terms are defined in subparagraph (B) [of this subsection)] *(C))* to the extent such costs do not exceed 30 per centum of such payments and have not been reimbursed under subsection (f).

(B) For the purpose of this paragraph, the term—

(i) "administrative costs of collection of loans" means any administrative costs incurred by a guaranty agency which are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the attributable compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of the compensation attributable to the collection activity), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable,

(ii) "administrative costs of preclaim assistance for default prevention" means any administrative costs incurred by a guaranty agency which are directly related to providing collection assistance to the lender on a delinquent loan, prior to the loan's being legally in a default status, including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to the collection activity), fees paid to locate a missing borrower, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable, and

(iii) "administrative costs of monitoring the enrollment and repayment status of students" means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note agreement to determine if the provisions of that agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note to assure that the repayment provisions are consistent with the provisions of this part,

subject to such additional criteria as the Secretary may by regulation prescribe.

(C)(i) For purposes of this paragraph, "administrative costs of supplemental preclaim assistance for default prevention" means (subject to divisions (ii) through (iv)) any administrative costs—

(I) incurred by a guaranty agency in connection with a loan on which the guarantor has exercised preclaims assistance required or permitted under sections 428(c)(2)(A) and 428(f)(2), and which has been in delinquent status for at least 120 days; and

(II) which are directly related to providing collection assistance to the lender on a delinquent loan, prior to a claim being filed by the guaranty agency, including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions, only the portion of compensation attributable to the collection assistance), fees paid to locate a missing borrower, postage, equipment, supplies, telephone, and similar charges, but does not include overhead costs.

(ii) The administrative costs for which reimbursement is authorized under this subparagraph must be clearly supplemental to the preclaim assistance for default prevention which the guaranty agency is required to provide pursuant to section 428(c)(2)(A) and section 428(f)(2) of this Act.

(iii) The services associated with carrying out this subparagraph may be provided by the guaranty agency directly or under contract,

except that such services may not be carried out by an organization or entity (other than the guaranty agency)—

(I) that is the holder or servicer of the loan or an organization or entity that owns or controls the holder or servicer of the loan; or

(II) that is owned or controlled by the same corporation, partnership, association, or individual that owns or controls the holder or servicer of the loan.

(iv) The costs associated with carrying out this subparagraph may not exceed 2 percent of the outstanding principal balance of each delinquent loan subject to the supplemental preclaim assistance authorized by this subparagraph or $100, whichever is less.

(7)(A) Notwithstanding paragraph (1)(B), the amount to be paid a State or a nonprofit private institution or organization for any fiscal year—

(i) which begins on or after the effective date of this paragraph; and

(ii) which is either the fiscal year in which such State, institution, or organization begins to actively carry on a student loan insurance program which is subject to a guarantee agreement under subsection (b) of this section, or is one of the four succeeding fiscal year,

shall be 100 per centum of the amount expended by such State, organization, or institution in discharge of its insurance obligation insured under such program.

(B) The Secretary shall continuously monitor the operations of those States and nonprofit private institutions or organizations to which the provisions of subparagraph (A) are applicable and revoke the application of such subparagraph to any such State or nonprofit private institution or organization which he determines has not exercised reasonable prudence in the administration of such program.

(8) If the Secretary determines that the protection of the Federal fiscal interest so requires a State or nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.

(d) No provision of any law of the United States (other than sections 427(a)(2)(D) and 427(b) of this Act) or of any State (other than a statute applicable principally to such State's student loan insurance program) which limits the rate or amount of interest payable on loans shall apply to a loan—

(1) which bears interest (exclusive of any premium for insurance) on the unpaid principal balance at a rate not in excess of the rate specified in this part, and

(2) which is insured (A) by the United States under this part, or (B) by a State or nonprofit private institution or organization under a program covered by an agreement made pursuant to subsection (b) of this section.

(e) [Repealed August 13, 1981, P.L. 97-35, sec. 537(a)(1), 95 Stat. 456.]

(f)(1) The Secretary is authorized to make payments in accordance with the provisions of this paragraph to any State or any nonprofit private institution or organization with which he has an agreement under subsection (b) of this section, for the purposes of—

(A) the administrative cost of promotion of commercial lender participation;

(B) the administrative costs of collection of loans;

(C) the administrative costs of preclaims assistance for default prevention;

(D) the administrative costs monitoring the enrollment and repayment status of students; or

(E) other such costs related to the student loan insurance program subject to such agreement.

The total amount of payments for any fiscal year made under this paragraph shall not exceed one-half of 1 per centum of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such State, or institution or organization. If the sums appropriated for any fiscal year for making payments under this paragraph are not sufficient to pay in full the amounts provided for which such States, institutions, and organizations are eligible, then such amount will be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentences has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(2) The Secretary is authorized to make payments in accordance with the provisions of this paragraph to any State or any nonprofit private institution or organization with which he has a supplemental guaranty agreement under section 428A(a)(2) of this Act for the purposes of—

(i) the administrative costs of promotion of commercial lender participation;

(ii) the administrative costs of collection of loans;

(iii) the administrative costs of preclaims assistance for default prevention;

(iv) the administrative costs of monitoring the enrollment and repayment status of students; or

(v) other such costs related to the student loan insurance program subject to such agreement.

The total amount of payments for any fiscal year made under this paragraph shall not exceed an additional one-half of 1 per centum of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such State, or institution or organization. If the sums appropriated for any fiscal year for making payments under this paragraph are not sufficient to pay in full the amounts provided for which such States, institutions, and organizations are eligible, then such amount will be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(3) For the purpose of this subsection, the term—

(A) "administrative costs of promotion of commercial lender participation" means any administrative costs incurred by an insurer which are directly related to supervising, training, or informing eligible lenders or prospective eligible lenders or inducing such lenders to improve or expand their program participation, and such costs may include (i) the costs of planning and executing instructional seminars and the costs of attending other meetings with lenders, (ii) the costs of obtaining or producing instructional or promotional materials or equipment for distribution to, or use with, lenders, (iii) postage costs associated with the distribution of instructional or promotional materials to lenders, (iv) the costs of providing interest and special allowance computation and billing services to lenders, (v) the amount of non-Federal funds expended by an insurer as incentive payments to lenders to induce them to improve or expand their program participation, (vi) an appropriate shares of the costs of establishing branch offices to serve the needs of lenders which are geographically distant from such insurer's primary business location, and (vii) an appropriate share of the compensation of personnel whose primary responsibility is the training, supervising, or recruiting of lenders, but not including personnel whose primary responsibilities are the performing or supervising such duties as relate to the routine processing of borrower applications for loans or the maintenance of supporting records but in no case shall any such costs include any overhead expenses of such insurer associated with the insurer's primary business location,

(B) "administrative costs of collection of loans" means any administrative costs incurred by a guaranty agency which are directly related to the collection of loans on which default claims have been paid to participating lenders, including the compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to collection activities), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency,

(C) "administrative costs of preclaim assistance for default prevention" means any administrative costs incurred by a guaranty agency which are directly related to providing collection asistance to lenders on delinquent loans, prior to the loans being legally in a default status, including the compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to collection activities), fees paid to locate missing borrowers, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency, and

(D) "administrative costs of monitoring the enrollment and repayment status of students" means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note agreement to determine if the provisions of that agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note to assure that the repayment provisions are consistent with the provisions of this part,

subject to such additional criteria as the Secretary may by regulation prescribe.

(4)(A) No payment may be made under paragraph (1) of this subsection unless the State of the nonprofit private institution or organization submits to the Secretary an application at such time, at least annually, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(i) contain provisions designed to demonstrate the capability of carrying out a necessary and successful program of collection of and preclaim assistance for the loan program subject to that agreement;

(ii) set forth an estimate of the costs which are eligible for payment under the provisions of this subsection;

(iii) provide for such administrative and fiscal procedures, including an audit, as are necessary to carry out the provisions of this subsection; and

(iv) set forth assurances that the State or the nonprofit private institution or organization will furnish such data and information, including where necessary estimates, as the Secretary may reasonably require to carry out the provisions of this subsection.

(B) No payment may be made under paragraph (2) of this subsection unless the State or the nonprofit private institution or organization submits to the Secretary an application, at such time, at least annually, in such manner, and containing or accompanies by such information as the Secretary may reasonably require. Each such application shall—

(i) set forth assurances that the student loan insurance program subject to the supplemental guaranty agreement complies with clauses (A) through (F) of paragraph (2) of section 428A(a);

(ii) contain provisions designed to demonstrate the capability of carrying out a necessary and successful program of collection of and preclaim assistance for the loan program subject to that agreement;

(iii) set forth an estimate of the costs which are eligible for payment under the provisions of this subsection;

(iv) provide for such administrative and fiscal procedures, including an audit, as are necessary to carry out the provisions of this subsection; and

(v) set forth assurances that the State or the nonprofit private institution or organization will furnish such data and information, including where necessary estimates, as the Secretary may reasonably require to carry out the provisions of this subsection.

(5)(A) The Secretary shall make payments in accordance with this paragraph to an agency, institution, or organization in any State which has an agreement under subsection (b) of this section which provides a lender referral service for students who meet the requirements of subparagraph (B).

(B) A student eligible to apply for lender referral services to an agency, institution, or organization in a State if (i) such student is either a resident of such State or is accepted for enrollment in or is attending an eligible institution in such State, and (ii) such student has sought and was unable to find a lender willing to make a loan under this part.

(C) The amount which the Secretary shall pay to any eligible agency, institution, or organization under this paragraph shall be equal to one-half of 1 per centum of the total principal amount of the loans upon which insurance was issued under this part on loans made to a student described in subparagraph (B) who subsequently obtained such loans because of such agency's, institution's, or organization's referral service.

(D) Nothing in this or any law shall prohibit an agency from using all or a portion of the funds received under this part for the payment of incentive fees to lenders who agree to participate in a loan referral service.

(E) There is authorized to be appropriated such sums as are necessary to carry out the provisions of this paragraph.

(g) If a nonprofit private institution or organization (1) applies to enter into an agreement with the Secretary under subsections (b) and (c) with respect to a student loan insurance program to be carried on in a State with which the Secretary does not have an agreement under subsection (b), and (2) as provided in the application, undertakes to meet the requirements of section 422(c)(6)(B) (i), (ii), and (iii), the Secretary shall consider an act upon such application within 180 days, and shall forthwith notify the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives of his actions.

(h)(1) From sums advanced by the Association pursuant to section 439(p), each State agency and nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) of this section or an eligible lender in a State described in section 435(g)(1) (D) or (F) of the Act is authorized to make loans directly to students otherwise unable to obtain loans under this part.

(2)(A) Each State agency or nonprofit private institution or organization which has an agreement under subsection (b) of this section or an eligible lender in a State described in section 435(g)(1) (D) or (F) and which has an application approved under section 439(p)(2) may receive advances under section 439(p) for each fiscal year in an amount necessary to meet the demand for loans under this section. The amount such agency, institution, organization, or lender is eligible to receive may not exceed 25 per centum of the average of the loans guaranteed by that agency, institution, organization, or lender for the three years preceding the fiscal year for which the determination is made. Whenever the determination required by the preceding sentence cannot be made because the agency, institution, organization, or lender does not have three years previous experience, the amount such agency, institution, organization, or lender is eligible to receive may not exceed 25 per centum of the loans guaranteed under a program of a State of comparable size.

(B) Each State agency or nonprofit private institution or organization which has an agreement under subsection (b) of this section and each eligible lender in a State described in section 435(g)(1) (D) or (F) shall repay advances made under section 439(p) in accordance with agreements entered between the Association and such agency, institution, or organization, or lender.

(3) Loans made pursuant to this subsection shall have the same terms, conditions, and benefits as all other loans made under this part.

(i)(1) Any State agency or any nonprofit private institution or organization which has an agreement under subsection (b) of this section may enter into an agreement with any eligible lender (other than an eligible institution or an agency or instrumentality of the State) for the purpose of authorizing multiple disbursements of the proceeds of a loan under which the lender will pay the proceeds of such loans into an escrow account to be administered by the State agency or any nonprofit private institution or organization in accordance with the provisions of paragraph (2) of this subsection.

(2) Each State agency or each nonprofit private institution or organization entering into an agreement under paragraph (1) of this subsection is authorized to—

(A) make the disbursements in accordance with the note evidencing the loan;

(B) commingle the proceeds of all loans paid to it pursuant to the escrow agreement entered into under such paragraph (1);

(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

(D) retain interest or other earnings on such investment; and

(E) return to the eligible lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.

(j) LENDERS OF LAST RESORT.—In each State, the guaranty agency or an eligible lender in the State described in section 435(g)(1)(D) of this Act shall make loans directly, or through an agreement with an eligible lender or lenders, to students eligible to receive interest benefits paid on their behalf under subsection (a) of this section who are otherwise unable to obtain loans under this part. Loans made under this subsection shall not exceed the amount of the need of the borrower, as determined under subsection (a)(z)(B) nor less than $200.

LOAN INSURANCE SUPPLEMENTAL GUARANTY AGREEMENT

SEC. 428A. (a)(1) The Secretary may enter into a supplemental guaranty agreement, annually, with any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c)(1) whereby the Secretary shall undertake to reimburse the State or nonprofit private institution or organization, under such terms and conditions as he may establish, in an amount determined in accordance with section 428(c)(1)(B), if the Secretary determines that the student loan insurance program—

(A) authorizes the insurance of loans in any amount up to a maximum of [$2,500 (in the case of a student who has not successfully completed a program of undergraduate education), or $5,000] *$3,000 (in the case of a student who has not successfully completed 2 years or its equivalent of a program of undergraduate education), $4,000 (in the case of a student who has completed 2 years or its equivalent of a program of undergraduate education, but who has not completed such program), or $7,500* (in the case of a graduate or professional student) to any individual student who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined under regulations of the Secretary) in any academic year or its equivalent (as determined under regulations of the Secretary), which limit shall not be deemed exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any such year in excess of such annual limit; and provides that the aggregate insured unpaid principal amount of all such insured loans made to any student shall be any amount up to a maximum of [$12,500] *$18,000* in the case of any student who has not successfully completed a program of undergraduate education, and [$25,000] *$55,500* in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a State or nonprofit institution or organization with which the Secretary has an agreement under this part, made to such person before he became a graduate or professional student), except that the Secretary may increase the limit applicable to graduate or professional students who are pursuing programs which the Secretary determines are exceptionally expensive;

(B) insures not less than 100 per centum of the unpaid principal of the loans insured under the program, whether or not such loans are eligible for interest subsidies under this part;

(C) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such State or nonprofit private institution or organization;

(D) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is a legal resident of the State and if such a student is accepted for enrollment in or is attending an eligible institution outside that State;

(E) provides no restrictions with respect to eligible institutions that are residential institutions which are more onerous than eligibility requirements for institutions under the Federal student loan insurance program, unless (i) that institution is ineligible under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program, or (ii) there is a State constitutional prohibition affecting the eligibility of such an institution; and

[(F) provides (i) for the eligibility of the eligible institutions as lenders under reasonable criteria, unless (I) that eligible institution is eliminated as the lender under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of such an institution as a lender, and (ii) assurances that the State or nonprofit private institution or organization will report to the Secretary not later than July 1, 1977, and annually thereafter, concerning such criteria including any special requirements for the eligibility of such lenders, procedures in effect under such program to limit, suspend, or terminate such lenders, a list of applications of such lenders, a summary of actions taken on such applications, and a list of the names of all such lenders within the State.]

(F) provides (i) for the eligibility of all lenders described in section 435(g)(1) under reasonable criteria, unless (I) that lender is eliminated as a lender under regulations for the limitation, suspension, or termination of lender under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligiblity as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of a lender, and (ii) assurances that the guaranty agency will report to the Secretary annually concerning such criteria, including any procedures in effect under such program to limit, suspend, or terminate lenders.

(2) The Secretary may enter into a supplemental guaranty agreement, annually, with any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c)(1) for the purpose of qualifying such State or nonprofit private institution or organization for payment of administrative cost allowances under section 428(f)(2) if the Secretary determines that the student loan insurance program—

(A) authorizes the insurance of loans in any amount up to a maximum of [$2,500 (in the case of a student who has not successfully completed a program of undergraduate education), or $5,000] *$3,000 (in the case of a student who has not successfully completed 2 years or its equivalent of a program of undergraduate education), $4,000 (in the case of a student who has completed 2 years or its equivalent of a program of undergraduate education, but who has not completed such program, or $7,000* (in the case of a graduate or professional student) to any individual student who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined under regulations of the Secretary) in any academic year or its equivalent (as determined under regulations of the Secretary), which limit shall not be deemed exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any such year in excess of such annual limit; and provides that the aggregate insured unpaid principal amount of all such insured loans made to any student shall be any amount up to a maximum of **[**$12,500**]** *$18,000* in the case of any student who has not successfully completed a program of undergraduate education, and **[**$25,000**]** *$55,500* in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a State or nonprofit institution or organization with which the Secretary has an agreement under this part, made to such person before he became a graduate or professional student), except that the Secretary may increase the limit applicable to graduate or professional students who are pursuing programs which the Secretary determines are exceptionally expensive;

(B) insures not less than 100 per centum of the unpaid principal of the loans insured under the program, whether or not such loans are eligible for interest subsidies under this part;

(C) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such State or nonprofit private institution or organization;

(D) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is a legal resident of the State, or if such a student is accepted for enrollment in or is attending an eligible institution within that State;

(E) provides no restrictions with respect to eligible institutions that are residential institutions which are more onerous than eligibility requirements for eligible institutions under the Federal student loan insurance program, unless (i) that eligible institution is ineligible under regulations for the limitations, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program, or (ii) there is a State constitutional prohibition affecting the eligibility of such an institution;

[(F) provides (i) for the eligibility of the eligible institutions as lenders under reasonable criteria, unless (I) that eligible institution is eliminated as a lender under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of such an institution as a lender, and (ii) assurances that

the State or nonprofit private institution or organization will report to the Secretary not later than July 1, 1977, and annually thereafter, concerning such criteria, including any special requirements for the eligibility of such lenders, procedures in effect under such program to limit, suspend, or terminate such lenders, a list of applications of such lenders, a summary of actions taken on such applications, and a list of the names of all such lenders within the State.]

(F) provides (i) for the eligibility of all lenders described in section 435(g)(1) under reasonable criteria, unless (I) that lender is eliminated as a lender under regulations for the limitation, suspension, or termination of lender under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of a lender, and (ii) assurances that the guaranty agency will report to the Secretary annually concerning such criteria, including any procedures in effect under such program to limit, suspend, or terminate lenders.

(b) Each supplemental guaranty agreement entered into under subsection (a)—

(1) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to insure proper and efficient administration of the loan insurance program, and to insure that due diligence will be exercised in the collection of loans insured under the program;

(2) shall set forth adequate assurance that the requirements of paragraph (1) or paragraph (2) of subsection (a) of this section, as the case may be, are met;

(3) shall provide for the making of such reports, in such form, and containing such information as the Secretary may reasonably require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(4) shall set forth adequate assurance that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Secretary pursuant to subsection (a) of this section, the undertaking of the Secretary under the supplemental guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

(5) shall provide that if, after the Secretary has made payment under the supplemental guaranty agreement pursuant to this section with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Secretary), there shall be paid over to the Secretary (for deposit in the fund established by section 431) such portion of the amount of such

payments as is determined (in accordance with regulations prescribed by the Secretary consistent with section 428(c)(6)) to represent his equitable share thereof, but shall not otherwise provide for subrogation of the United States to the rights of any insurance beneficiary: *Provided*, That, except as the Secretary may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan; and

(6) may include such provisions as may be necessary to promote the purposes of this part.

(c)(1) To the extent provided in regulations of the Secretary, a supplemental guaranty agreement under this section may contain provisions which permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer.

(2) For purposes of this section, the terms "insurance beneficiary" and "default" shall have the meanings assigned to them by section 430(e).

AUXILIARY LOANS TO ASSIST STUDENTS

SEC. 428B. (a)(1) Parents of a dependent undergraduate student (as defined by regulations by the Secretary) shall be eligible to borrow funds under this part in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), such loans shall have the same terms, conditions, and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this section the terms "student" and "student borrower" used in this part shall include a parent borrower under this section, but such a parent borrower shall not be eligible for any deferment pursuant to section 427(a)(2)(C) or 428(b)(1)(M).

(2) Graduate or professional students (as defined by regulations of the Secretary) and independent undergraduate students (as defined in section 482(c)(2)) shall be eligible to borrow funds under this section in amounts specified in subsection (b) (treating graduate and professional students as parents for the purposes of such subsection), and unless otherwise specified in subsections (c) and (d), such loans shall have the same terms, conditions, and benefits as all other loans made under this part.

(b)(1) Subject to paragraphs (2) and (3), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulation by the Secretary) is **[**$3,000.**]** *$4,000.*

(2) The aggregate insured principal amount for insured loans made to parents on account of an undergraduate dependent student shall not exceed **[**$15,000.**]** *$20,000.*

(3) Any loan under this section may be counted as part of the student's expected family contribution in the determination of need under this title, but no loan may be made to any parent or student under this part which would cause their combined loans for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance as certified by the eligible institution under section 428(a)(2)(A) of this part. The annual insurable limit on account of any student shall not be

deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

(c)(1) Repayment of principal on loans made under this section shall commence not later than sixty days after the date such loan is disbursed by a lender.

(2) No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

(3) Interest on loans made pursuant to this section shall be at the rate of 9 per centum per annum on the unpaid principal balance of the loan, except as otherwise required by section 427A(c).

(4)(A) Subject to subparagraph (B) of this paragraph, the maximum amount an independent undergraduate student may borrow under this section in any academic year or its equivalent (as defined by regulation by the Secretary) is equal to (i) **[**$2,500,**]** *$4,500,* minus (ii) the amount of all other loans under this part to such student for such academic year or its equivalent.

(B) The aggregate insured unpaid principal amount for insured loans made to an independent undergraduate student under this part (including loans made under this section) shall not exceed **[**$12,500.**]** *$22,500.*

(d) Loans made under this section shall be insured by the Secretary in a State only if—

(1) the State is not served by a State agency or nonprofit private institution or organization having an agreement with the Secretary pursuant to section 428(b), or

(2) an agency, institution, or organization in a State having such an agreement does not authorize loans under this section (A) within one hundred and twenty days after the effective date of this amendment, or (B) if a State is prohibited from authorizing loans under this section because of existing State law, one hundred and twenty days after the adjournment of the next regular session of the State legislature which convenes after the effective date of this amendment.

CONSOLIDATION LOANS

SEC. 428C. (a)(1) For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to student loans—

(A) made, insured, or guaranteed under this part,

(B) made under part E of this title, or

(C) made under subpart II of part C of title VII of the Public Health Service Act,

the Secretary or a guaranty agency shall enter into agreements in accordance with subsection (b) with—

(i) the Student Loan Marketing Association;

(ii) agencies described in subparagraphs (D) and (F) of section 435(g)(1); and

(iii) eligible lenders described in subparagraphs (A), (B), (C), and (E) of such section.

(2) Except as provided in section 429(e), no contract of insurance under this part shall apply to a consolidation loan unless such loan

is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2). Loans covered by such a certificate that is issued by a guaranty agency shall be considered to be insured loans for the purpose of reimbursements under section 428(c), but no payment shall be made with respect to such loans under section 428(f) to any such guaranty agency.

(3) For the purpose of this section, the term "eligible borrower" means a borrower who—

(A) has an outstanding indebtedness, at the time of application for a consolidation loan, to one or more lenders or programs described in paragraph (1) of not less than $5,000;

(B) has not during the previous 4 months carried at an eligible institution at least one-half the normal full-time academic workload;

(C) if in repayment status, is not delinquent with respect to any required payment on such indebtedness by more than 90 days; and

(D) is not a parent borrower under section 428B(a)(1).

(4) An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section except with respect to loans received under this title after the date of receipt of the consolidation loan. For the purpose of computing the outstanding indebtedness of such an indiviudal, only loans received after such date shall be taken into account.

(b)(1) Any lender described in clause (i), (ii), or (iii) of subsection (a)(1) who wishes to make consolidation loans under this section shall enter into an agreement with the Secretary or a guaranty agency which provides—

(A)(i) that, in the case of lenders described in subsection (a)(1), the lender will make a consolidation loan to an eligible borrower (on request of that borrower) only if (I) the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation under this section, or (II) the borrower certifies that the borrower has sought and has been unable to obtain a consolidation loan from the holders of the outstanding loans of that borrower (which are so selected for consolidation);

(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c);

(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the maximum principal amount for all insured loans made to a borrower, in an amount (i) which is not less than the minimum amount required for eligibility of the borrower under subsection (a)(3)(A)(i), and (ii) which is equal to the sum of the unpaid principal, accrued unpaid interest and late charges of all loans received by the eligible borrower under programs described in subsection (a)(1) which are selected by the borrower for consolidation;

(D) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans; and

(E) such other terms and conditions as the Secretary or a guaranty agency (whichever is party to the agreement) may specifically require of the lender to carry out this section.

(2) The Secretary shall issue a certificate of comprehensive insurance coverage under section 429(b) to a lender which has entered into an agreement with the Secretary under paragraph (1) of this subsection. A guaranty agency may issue a certificate of comprehensive insurance coverage to a lender if the lender has entered into an agreement under paragraph (1) of this subsection. The Secretary shall not issue such a certificate under this paragraph to a lender described in clause (ii) or (iii) of subsection (a)(1) if the Secretary determines that such lender has reasonable access in its State, for the purpose of obtaining such a certificate, to a State or guaranty agency. In either case, such certificate shall, at a minimum, provide—

(A) that all consolidation loans made by such lender in conformity with the requirements of this section will be insured against loss of principal and interest by the issuer of such certificate;

(B) that a consolidation loan will not be insured unless the lender has determined to its satisfication, in accordance with reasonable and prudent business practices, for each loan being consolidated (i) that the loan is a legal, valid, and binding obligation of the borrower; (ii) that each such loan was made and serviced in compliance with applicable laws and regulations; and (iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

(C) the effective date and expiration date of the certificate;

(D) the aggregate amount to which the certificate applies;

(E) that, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of such certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

(F) the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

(3) A consolidation loan made pursuant to this section shall be insurable under a certificate issued pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is evidenced by a note or other written agreement which—

(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under applicable law, create a binding obligation, endorsement may be required;

(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section and contains notice of the possibility of a revised repayment schedule under paragraph (2) of such subsection;

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

(i) during which the borrower is pursuing a full-time course of study at an eligible institution, is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary;

(ii) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition;

(iii) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled; or

(iv) which is a single period, not in excess of 12 months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment; and

that any such period shall not be included in determining the repayment period provided pursuant to subsection (c)(2) of this section;

(D) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

(E)(i) contains a notice of the system of disclosure concerning such loan to credit bureau organizations under section 430(b)(2), and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations.

(c)(1)(A) Subject to subparagraphs (B), (C), and (D), each consolidation loan made under this section shall bear interest at the rate of 10 per centum per annum on the unpaid principal balance of the loan, except that, if the consolidation loan is used for the purpose of discharging liability on a loan made pursuant to section 428B, the consolidation loan shall bear interest at a rate per annum on such unpaid balance which is equal to the highest applicable interest rate under section 427A on any loan which is selected for consolidation by the borrower. For the purpose of payment of special allowances under section 438(b)(2), the interest rate required by this subsection is the applicable interest rate with respect to a consolidation loan.

(B) The rate of interest applicable to any consolidated loan shall be adjusted by the holder of the loan in the first month of the tenth year of the repayment period of the loan to a market rate equal to the rate established by the Secretary of the Treasury pursuant to subparagraph (C).

(C) The Secretary of the Treasury shall, for each calendar year beginning in the first calendar year beginning 10 years after the date of enactment of this section, establish the interest rate to the applicable under subparagraph (B) of this paragraph—

(i) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for the 4 quarters preceding the period for which the determination is made; and

(ii) by adding 3.25 per centum to the per centum determined in clause (i).

The Secretary, after consultation with the Secretary of the Treasury, shall publish for each calendar year beginning with the first calendar year beginning 10 years after the date of enactment of this section the interest rate determined by the Secretary of the Treasury under this subparagraph for each calendar year.

(D) No interest rate adjustment shall be made under subparagraph (B) of this paragraph for any eligible borrower who, at the time the determinatin is made—

(i) is a low-income individual, and

(ii) who has a high ratio of outstanding loans under programs described under subsection (a) (1) of this section (whether or not such loans are consolidated), to income,

as determined pursuant to regulations prescribed by the Secretary.

(2)(A) Notwithstanding any other provision of this part, to the extent authorized by its certificate of insurance under subsection (b)(2)(F) and approved by the issuer of such certificate, the lender of a consolidation loan, with the agreement of the borrower, may establish such repayment terms as will promote the objectives of this section, including the establishment of graduated and income sensitive repaypment schedules, except that the minimum payment must equal the accrued unpaid interest for the payment period.

(B)(i) Except as provided in division (ii) a consolidation loan shall be repaid in not more than 15 years.

(ii) In any case in which the original amount of the consolidated loan exceeds $25,000, and the borrower has loans under subpart I of part C of title VII of the Public Health Service Act, which, together with the original amount of the consolidatd loan exceed $30,000, the consolidated loan shall be repaid in not more than 20 years.

(C) The lender of a consolidation loan may, with respect to repayment on the loan, when the amount of a monthly or other similar payment to the next highest whole dollar amount that is a multiple of $5.

(3) Repayment of a consolidation loan shall commence within 60 days after all holders have, pursuant to subsection (b) (1) (D), discharged the liability of the borrower on the loans selected for consolidation.

(4) No origination fee or insurance premium shall be charged to the borrower on any consolidatin loan, and no insurance premium shall be payable by the lender to the issuer of the certificate of insurance with respect to any such loan.

(d) The authority to make loans under this section expires at the close of September 30, 1991. Nothing in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b). Loans made under this section shall not be considered to be new loans made to students for purposes of section 424(a).

CERTIFICATE OF FEDERAL LOAN INSURANCE—EFFECTIVE DATE OF INSURANCE

SEC. 429. (a)(1) If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

(2) Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon sixty days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).

(3) An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statement during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

(b)(1) In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a), the Secretary may, in accordance with regulations consistent with section 424, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the financial interest of the United States and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

(2) If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the

coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 424, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance on comprehensive coverage under the subsection for the period or periods in which such future loans or payments are made.

(c) The Secretary shall, pursuant to regulations, charge for insurance on each loan under this part a premium in an amount not to exceed one-fourth of 1 per centum per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Secretary. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Secretary has made such payment on his own motion pursuant to section 430(a).

(d) The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Secretary.

(e) The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation; if they are covered by a single comprehensive certificate issued under subsection (b), the Secretary may amend that certificate accordingly.

DEFAULT OF STUDENT UNDER FEDERAL LOAN INSURANCE PROGRAM

SEC. 430. (a) Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Secretary, and the Secretary shall if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount had been determined. The "amount of the loss" on any loan shall, for the purposes of this subsection and subsection (b), be deemed to be an amount equal to the unpaid balance of the principal amount and accrued interest, including interest accruing from the date of submission of a valid default claim (as determined by the Secretary) to the date on which payment is authorized by the Secretary, reduced to the extent required by section 425(b). Such beneficiary shall be required to meet the standards of due diligence in the collection of the loan. The Secretary shall make the determination required to carry out the provisions of this section not later than ninety days after the notification by the insurance beneficiary and shall make payment in full on the amount of the beneficiary's loss pending completion of his due diligence investigation.

(b)(1) Upon payment of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery [(including reasonable administrative costs)] *(including reasonable administrative and collection costs, to the extent set forth in regulations issued by the Secretary)* exceeds the amount of the loss, the excess shall be paid over to the insured. The Secretary may, in attempting to make recovery on such loans, contract with private business concerns, State student loan insurance agencies, or State guaranty agencies, for payment for services rendered by such concerns or agencies in assisting the Secretary in making such recovery. Any contract under this subsection entered into by the Secretary shall provide that attempts to make recovery on such loans shall be fair and reasonable, and do not involve harassment, intimidation, false or misleading representations, or unnecessary communications concerning the existence of any such loan to persons other than the student borrower.

[(2)(A) For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part, the Secretary shall enter into cooperative agreements with credit bureau organizations providing for the exchange of information concerning student borrowers in accordance with the requirements of this paragraph. For the purpose of assisting such organizations to comply with the Fair Credit Reporting Act, such agreements may provide for timely response by the Secretary to requests from such organizations for responses to objections raised by borrowers. Subject to the requirements of subparagraph (C), such agreements shall provide for the disclosure by the Secretary to such organizations with respect to any loan for which the Secretary has received a notice of default under subsection (a) of this section of—

[(i) the date of disbursement and the amount of any such loan;

[(ii) information concerning collection of any such loan, including information concerning the status of any defaulted loan on which the Secretary has made a payment pursuant to subsection (a) of this section; and

[(iii) the date of cancellation of the note upon completion of repayment by the borrower of any such loan or payment by the Secretary pursuant to section 437.

[(B) Such agreements may also provide for the disclosure by such organizations to the Secretary, upon receipt from the Secretary of a notice under subparagraph (A)(ii) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary in proceeding to collection of the defaulted amount.

[(C) Agreements entered into pursuant to this paragraph shall contain such provisions as may be necessary to ensure that—

[(i) no information is disclosed by the Secretary unless its accuracy and completeness have been verified, and no information stating that a loan is in default is disclosed until the Secretary has made a reasonable effort to collect the debt;

[(ii) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

[(iii) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

[(iv) except for disclosures made to obtain the borrower's location, the Secretary (I) shall not disclose any such information until he has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his loan, but (II) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

[(D)(i) The Secretary shall, within ninety days after the date of enactment of this paragraph, take such steps as may be necessary to establish the disclosure of information described in subparagraph (A) (i), (ii), and (iii) as a routine use in accordance with section 552a(b)(3) of title 5, United States Code, and to establish a system for the prompt notification of any borrower of any disclosure made pursuant to this paragraph.

[(ii) Information disclosed by the Secretary to credit bureau organizations under the requirements of this paragraph shall not constitute a system of records within the meaning of section 552a of title 5, United States Code (the Privacy Act of 1974); and credit bureau organizations which enter into agreements with the Secretary under this paragraph shall not be considered Government contractors within the meaning of that Act.

[(c) Nothing in this section or in this part shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary, or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance. Any forbearance which is approved by the Secretary under this subsection with respect to the repayment of a loan shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and due diligence in the collection of the loan.

[(d) Nothing in this section or in this part shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 428(a)(4) and section 429(a)(3), or to pay the required Federal loan insurance premiums, he shall disqualify that lender for further Federal insurance on loans granted pursuant to this part until he is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

[(e) As used in this section—

[(1) the term "insurance beneficiary" means the insured or its authorized representative assigned in accordance with section 429(d); and

[(2) the term "default" includes only such defaults as have existed for (A) one hundred and twenty days in the case of a loan which is repayable in monthly installments, or (B) one hundred and eighty days in the case of a loan which is repayable in less frequent installments.]

REPORTS TO CREDIT BUREAUS AND INSTITUTIONS OF HIGHER EDUCATION

SEC. 403A. (a) For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part or covered by a quaranty agreement pursuant to section 428, the Secretary, and each guaranty agency, eligible lender, and subsequent holder shall enter into agreements with credit bureau organizations to exchange information concerning student borrowers, in accordance with the requirements of this section. For the purpose of assisting such organizations in complying with the Fair Credit Reporting Act, such agreements may provide for timely response to the Secretary (concerning loans covered by Federal loan insurance) or by a guaranty agency, eligible lender, or subsequent holder (concerning loans covered by a guaranty agreement) to requests from such organizations for responses to objections raised by such borrowers. Subject to the requirements of subsection (c), such agreements shall require the Secretary or guaranty agency, eligible lender, or subsequent holder to discloses to such organizations with respect to any loan dispersed to a student—

(1) the date of disbursement and the amount of the loan;

(2) the date of default and informaton concerning collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 430(a) or the guaranty agency has made a payment to the previous holder of the loan; and

(3) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 437.

(b) Such agreements may also provide for the disclosure by such organizations to the Secretary, a guaranty agency, eligible lender, or subsequent holder upon receipt of a notice under subsection (a)(2) that such loan is in default, or information which may assist the Secretary, guaranty agency, eligible lender, or subsequent holder in collecting the loan.

(c) Agreements entered into pursuant to this section shall contain such provisions as may be necessary to ensure that—

(1) no information is disclosed by the Secretary, guaranty agency, eligible lender, or subsequent holder unless its accuracy and completeness have been verified and the Secretary, guaranty agency, eligible lender, or subsequent holder has determined that disclosure would carry out the purpose of this section;

(2) as to any information so disclosed, such credit bureau organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary, guaranty agency, eligible lender, or subsequent holder with respect to such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 168i);

(3) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning such information; and

(4) with regard to notices of default under subsection (a)(2) of this section, except for disclosures made to obtain the borrower's location, the Secretary, guaranty agency, eligible lender, or subsequent holder (A) shall not disclose any such information until the Secretary, guaranty agency, eligible lender, or subsequent holder has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of the loan, but (B) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

(d) A guaranty agency, eligible lender, subsequent holder, or credit bureau organization which discloses or receives information under this section shall not be considered a Government contractor within the meaning of section 552a of title 5, United States Code.

(e) The Secretary and each guaranty agency, eligible lender, and subsequent holder is authorized to disclose information described in subsections (a) and (b) concerning student borrowers to the eligible institutions such borrowers attend or previously attended.

(f) Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 6181c(a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary, or a guaranty agency, eligible lender, or subsequent holder regarding the status of a borrower's account of a loan insured or guaranteed under this part until the later of—

(1) seven years from the date on which the agency paid a claim to the holder on insurance or the guaranty, or

(2) seven years from the date the Secretary, guaranty agency, eligible lender, or subsequent holder first reported the account to a consumer reporting agency.

INSURANCE FUND

SEC. 431. (a) There is hereby established a student loan insurance fund (hereinafter in this section called the "fund") which shall be available without fiscal year limitation to the Secretary for making payments in connection with the default of loans insured by him under this part, or in connection with payments under a guaranty agreement under section 428(c). All amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with his operations under this part, any excess advances under section 422(c)(4)(C), and any other moneys, property, or assets derived by the Secretary from his operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Secretary under this part, or in connection with such guaranty agreements shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

(b) If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Secretary under this part, or in connection with any guaranty agreement made under section 428(c) or 428A(a)(1), the Secretary is authorized, to the extent provided in advance by appropriations Acts, to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under the subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

LEGAL POWERS AND RESPONSIBILITIES

SEC. 432. (a) In the performance of, and with respect to, the functions, powers, and duties, vested in him by this part, the Secretary may—

(1) prescribe such regulations as may be necessary to carry out the purposes of this part;

(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 509, 517, 547, and 2679 of title 28 of the United States Code;

(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to his obligations and rights to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this part will be achieved; and any term, condition, and covenant made pursuant to this clause or any other provisions of this part may be modified by the Secretary if he determines that modification is necessary to protect the financial interest of the United States;

(4) subject to the specific limitations in this part, consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by him under this part;

(5) enforce, pay, or compromise, any claim on, or arising because of, any such insurance or any guarantee agreement under section 428(c); and

(6) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption.

(b) The Secretary shall, with respect to the financial operations arising by reason of this part—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act; and

(2) maintain with respect to insurance under this part an integral set of accounts, which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 105 of the Government Corporation Control Act, except that the transactions of the Secretary, including

the settlement of insurance claims and of claims for payments pursuant to section 428, and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.

(c)(1)(A) For loans insured after December 31, 1976, or in the case of each insurer after such earlier date where the data required by this subsection are available, the Secretary and all other insurers under this part shall collect and accumulate all data relating to (i) loan volume insured and (ii) defaults reimbursed or default rates according to the categories of loans listed in subparagraph (B) of this paragraph.

(B) The data indicated in subparagraph (A) of this paragraph shall be accumulated according to the category of lender making the loan and shall be accumulated separately for lenders who are (i) eligible institutions, (ii) State or private, nonprofit direct lenders, (iii) commercial financial institutions who are banks, savings and loan associations, or credit unions, and (iv) all other types of institutions or agencies.

(C) The Secretary may designate such additional subcategories within the categories specified in subparagraph (B) as he deems appropriate.

(D) The category or designation of a loan shall not be changed for any reason, including its purchase or acquisition by a lender of another category.

(2)(A) The Secretary shall collect data under this subsection from all insurers under this part and shall publish not less often than once every fiscal year a report showing loan volume guaranteed and default data for each category specified in subparagraph (B) of paragraph (1) of this subsection and for the total of all lenders.

(B) The reports specified in subparagraph (A) of this paragraph shall include a separate report for each insurer under this part including the Secretary, and where an insurer insures loans for lenders in more than one State, such insurer's report shall list all data separately for each State.

(3) For purposes of clarity in communications, the Secretary shall separately identify loans made by the lenders referred to in clause (i) and loans made by the lenders referred to in clause (ii) of paragraph (1)(B) of this subsection.

(d)(1) The functions of the Secretary under this part listed in paragraph (2) of this subsection may be delegated to employees in the regional office of the Office of Education established pursuant to section 403(c)(2) of the General Education Provisions Act.

(2) The functions which may be delegated pursuant to this subsection are—

(A) reviewing applications for loan insurance under section 429 and issuing contracts for Federal loan insurance, certificates of insurance, and certificates of comprehensive insurance coverage to eligible lenders which are financial or credit institutions subject to examination and supervision by an agency of the United States or of any State;

(B) receiving claims for payments under section 430(a), examining those claims, and pursuant to regulations of the Secretary, approving claims for payment, or requiring lenders to take additional collection action as a condition for payment of claims; and

(C) certifying to the central office when collection of defaulted loans has been completed, compromising or agreeing to the modification of any Federal claim against a borrower (pursuant to regulations of the Secretary issued under section 432(a)), and recommending litigation with respect to any such claim.

(e) Notwithstanding any other provision of law, the Secretary may provide to eligible lenders, and to any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c)(1), any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived.

(f)(1) If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that the eligible lender—

(A) has substantially failed—

(i) to exercise reasonable care and diligence in the making and collecting of loans under the provisions of this part,

(ii) to make the reports or statements under section 428(a)(4),

(iii) to pay the required loan insurance premiums to any guaranty agency, or

(B) has engaged in—

(i) fraudulent or misleading advertising or in solicitations that have resulted in the making of loans insured or guaranteed under this part to borrowers who are ineligible; or

(ii) the practice of making loans that violate the certification for eligibility provided in section 428,

the Secretary shall limit, suspend, or terminate that lender from participation in the insurance programs operated by guaranty agencies under this part. The Secretary shall not lift any such limitation, suspension, or termination until the Secretary is satisfied that the lender's failure under clause (A) of this paragraph or practice under clause (B) of this paragraph has ceased and finds that there are reasonable assurances that the lender will—

(I) exercise the necessary care and diligence,

(II) comply with the requirements described in clause (A), or

(III) cease to engage in the practices described in clause (B),

as the case may be.

(2)(A) The Secretary shall, in accordance with sections 556 and 557 of title 5, United States Code, review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 428A(a)(1)(F) within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the lender. The Secretary shall disqualify such lender from participation in the student loan insurance program of each guaranty agency under this part, and notify each such guaranty agency of such disqualification—

(i) if such review is waived; or

(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with the requirements of such section.

(B) The Secretary shall not lift any such disqualification until the Secretary is satisfied that the lender has corrected the failures or practices which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the lender will comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such disqualification.

(3)(A) The Secretary shall, in accordance with sections 556 and 557 of title 5, United States Code, review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 428A(a)(1)(E) within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the institution. The Secretary shall disqualify such institution from participation in the student loan insurance program of each guaranty agency under this part, and notify each such guaranty agency of such disqualification—

(i) if such review is waived; or

(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with the requirements of such section.

(B) The Secretary shall not lift any such disqualification until the Secretary is satisfied that the institution has corrected the failures or practices which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the institution will comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such disqualification.

(g) CONFORMING AMENDMENT.—(1) Section 428A(a)(1)(F) of the Act is amended to read as follows:

INSTITUTIONAL LENDERS

SEC. 433. (a)(1) An eligible institution may not act as an eligible lender or originate loans under this part unless it has in effect an agreement with the Secretary under which it agrees (A) to make such loans to no more than 50 per centum of the students in attendance at the institution who are not graduate or professional students (as defined in regulations of the Secretary), and (B) that it will not make such a loan under this part to a student, other than a graduate or professional student (as defined in regulations of the Secretary), who has not previously received a loan from such institution until such student has provided the institution with either (i) a statement from an eligible lender (other than an eligible institution or a State or an agency of a State or private nonprofit agency designated by a State) that the borrower sought a loan from it and was denied such loan, or (ii) a sworn statement by the borrower that the lender from which he sought such a loan declined to provide the statement described in clause (i).

(2) Whenever the Secretary determines that the termination of the eligible institution's status as a lender under clause (A) of para-

graph (1) would be a hardship to the present or prospective students of the eligible institution after considering the management of that institution, the opportunities that institution provides to economically disadvantaged students, and related factors, the Secretary shall waive the provisions of such paragraph with respect to that institution.

(b)(1) An eligible institution shall be deemed to have originated a loan for purposes of this section if it has had delegated to it by an eligible lender a substantial portion of the functions and responsibilities normally performed by a lender prior to the making of a loan, such as interviewing the applicant for the loan, explaining the applicant's responsibilities under the loan, obtaining completion of necessary forms obtaining necessary documentation, or verifying that the student is eligible for the loan.

(2) For purposes of this section, a loan is made or originated on the date of the first disbursement of any proceeds of the loan.

STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS

SEC. 433A. (a) Each eligible lender shall, at or prior to the time such lender disburses a loan [to a borrower] which is insured or guaranteed under this part, provide thorough and accurate loan information on such loan to the borrower. Any disclosure required by this subsection may be made by an eligible lender as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosures shall include—

(1) the name of the eligible lender, and the address to which communications and payments should be sent;

(2) the principal amount of the loan;

(3) the amount of any charges, such as the origination fee and insurance premium, collected by the lender at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

(4) the stated interest rate on the loan;

(5) the yearly and cumulative maximum amounts that may be borrowed;

(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

(7) a statement as to the minimum and maximum repayment term which the lender may impose, and the minimum annual payment required by law;

(8) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(9) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);

(10) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default may be reported to a credit bureau or credit reporting agency;

(11) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

(12) an explanation of any cost the borrower may incur in the making or collection of the loan.

(b) Each eligible lender shall, at or prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the borrower the information required under this subsection. Any disclosure required by this subsection may be made by an eligible lender either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosures shall include:

(1) the name of the eligible lender, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

(c) Such information shall be available without cost to the borrower. The failure of an eligible lender to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary under a contract of insurance or reinsurance, or the obligation of a State or nonprofit private agency or organization which has an agreement with the Secretary under section 428(b) under a contract of guaranty. The Secretary may limit, suspend, or terminate the continued participation of an eligible lender in making loans under this part for failure by that lender to comply with this section.

PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS

SEC. 434. Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Director of the Bureau of Federal Credit Unions, have power to make insured loans to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 428(a)(1)(C).

DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM

SEC. 435. As used in this part:

(a)*(1)* The term "eligible institution" means [(1)] *(A)* an institution of higher education, [(2)] *(B)* vocational school, or [(3)] *(C)* with respect to students who are nationals of the United States, an institution outside the United States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Secretary for purposes of this part, except that such term does not include any such institution or school which employs or uses commissioned salesmen to promote the availability of any loan program described in section 428(a)(1) at that institution or school.

(2) For the purpose of qualifying an institution under clause (C) of this subsection, the Secretary shall establish criteria by regulation. In the case of a medical school outside the United States, such criteria may include a requirement that not less than 90 percent of the students who are nationals of the United States enrolled in such school shall have scored in the top one-quarter on an approved medical college admissions examination; and that such students achieve a pass rate of not less than 50 percent on the examinations administered by the Educational Commission for Foreign Medical Graduates.

(b) The term "institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, or who are beyond the age of compulsory school attendance, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose or, if not so accredited, (A) is an institution with respect to which the Secretary has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time or, (B) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term includes any public or other nonprofit collegiate or associate degree school of nursing and any school which provides not less than one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (4), and (5). If the Secretary determines that a particular category of such schools does not meet the requirements of clause (5) because there is no nationally recognized accrediting agency or association qualified to accredit schools in such category, he shall, pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specially qualified to evaluate training provided by schools in such category, which shall (i) prescribe the standards of content, scope, and quality which must be met in order to qualify schools in such category to participate in the program pursuant to this part, and (ii) determine whether particular schools not meeting the requirements of clause (5) meet those standards. For purposes of this subsection the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(c) The term "vocational school" means a business or trade school, or technical institution or other technical or vocational school, in any State, which (1) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (2) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (3) has been in existence for two years or has been specially accredited by the Secretary as an institution meeting the other requirements of this subsection; and (4) is accredited (A) by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this clause, (B) if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Secretary pursuant to this clause and (C) if the Secretary determines there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by him and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools in order for loans to students attending them to be insurable under this part and shall also determine whether particular schools meet those standards. For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations and State agencies which he determines to be reliable authority as to the quality of education or training afforded.

(d) The term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing.

(e) The term "associate degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

(f) The term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.

(g)(1) **[**Except**]** *Subject to paragraph (5) except* as provided in paragraphs (2), (3), and (4), the term "eligible lender" means—

(A) a National or State chartered bank, a mutual savings bank, a savings and loan association, *stock savings bank, trust companies,* or a credit union which—

(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part unless it is a bank which is wholly owned by a State;

(B) a pension fund as defined in the Employee Retirement Income Security Act;

(C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;

(D) in any State, a single agency of the State or a single nonprofit private agency designated by the State;

(E) an eligible institution which meets the requirements of paragraphs (2), (3), and (4) of this subsection and which has signed an agreement pursuant to section 433;

(F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or an agency of any State functioning as a secondary market;

(G) for purposes of making loans under **[**section 439 (o) and (q),**]** *sections 428(h) and 428C* the Student Loan Marketing Association; and

(H) for purposes of making loans under **[**section 428(j),**]** *sections 428(h) and 428C* a State agency or a nonprofit private institution or organization having an agreement under section 428(b).

(2) To be an eligible lender under this part, an eligible institution—

(A) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution; and

(B) shall not be a home study school.

(3) The term eligible lender does not include any eligible institution in any fiscal year immediately after the fiscal year in which the Secretary determines, after notice and opportunity for a hearing, that for each of two consecutive years a 15 per centum or more of the total amount of such loans as are described in section

428(a)(1) made by the institution with respect to students at that institution and repayable in each such year is a default, as defined in section 430(e)(2).

(4) Whenever the Secretary determines that—

(A) there is reasonable possibility that an eligible institution may, within one year after a determination is made under paragraph (3), improve the collection of loans described in section 428(a)(1), so that the application of paragraph (3) would be a hardship to that institution, or

(B) the termination of the lender's status under paragraph (3) would be a hardship to the present or for prospective students of the eligible institution, after considering the management of that institution, the ability of that institution to improve the collection of loans, the opportunities that institution offers to economically disadvantaged students, and other related factors,

the Secretary shall waive the provisions of paragraph (3) with respect to that institution. Any determination required under this paragraph shall be made by the Secretary prior to the termination of an eligible institution as a lender under the exception of paragraph (3). Whenever the Secretary grants a waiver pursuant to this paragraph he shall provide technical assistance to the institution concerned in order to improve the collection rate of such loans.

(h) The term "line of credit" means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

(i) The term "due diligence" requires the utilization by a lender, in the servicing and collection of loans insured under this part, of collection practices at least as extensive and forceful as those generally practiced by financial institutions for the collection of consumer loans.

(j) The term "temporarily totally disabled" when used with respect to a borrower means a borrower who, by reason of injury or illness, cannot be expected to be able to attend an eligible institution or to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years. Such term when used with respect to the spouse of a borrower means a spouse who, by reason of injury or illness, cannot be expected to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years and who during such period required continuous nursing or other similar services.

(5) An eligible lender under this part may not—

(A) offer, directly or indirectly, points, premiums, payments, or other inducements to any educational institution or individual in order to secure applicants for loans under this part;

(B) offer, directly or indirectly, loans under this part as an inducement to a prospective borrower to purchase a policy of insurance or other product; or

(C) engage in fraudulent or misleading advertising.

(k) The term "guaranty agency" means a State or nonprofit private institution or organization with which the Secretary has an agreement pursuant to section 428(b).

DISTRICT OF COLUMBIA STUDENT LOAN INSURANCE PROGRAM

SEC. 436. (a) The government of the District of Columbia is authorized (1) to establish a student loan insurance program which meets the requirements of this part for a State loan insurance program in order to enter into agreements with the Secretary for the purposes of this title, (2) to enter into such agreements with the Secretary, (3) to use amounts appropriated for the purposes of this section to establish a fund for such purposes and for expenses in connection therewith, and (4) to accept and use donations for the purposes of this section.

(b) Notwithstanding the provisions of any applicable law, if the borrower, on any loan insured under the program established pursuant to this section, is a minor, any otherwise valid vote or other written agreement executed by him for the purposes of such loan shall create a binding obligation.

(c) There are authorized to be appropriated such amounts as may be necessary for the purposes of this section.

REPAYMENT BY THE COMMISSIONER OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS

SEC. 437. (a) If a student borrower who has received a loan described in clause (A), (B), or (C) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

(b) If a student borrower who has received a loan described in clause (A), (B), or (C) of section 428(a)(1) is relieved of his obligation to repay such loan, in whole or in part, through a discharge in bankruptcy, the Secretary shall repay the amount of the loan so discharged.

SPECIAL ALLOWANCES

SEC. 438. (a) In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious and objective examination of alternative methods for the determination of the quarterly rate of such allowances.

(b)(1) A special allowance shall be paid for each of the three-month periods ending March 31; June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any three-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

(2)(A) Subject to subparagraph (B) and paragraph (4), the special allowance paid pursuant to this subsection on loans shall be computed (i) by determining the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such three month period, (ii) by subtracting the applicable interest rate on such loans from such average, (iii) by adding **[**3.5 per centum**]** *3.25 per centum* to the resultant per centum, and (iv) by dividing the resultant per centum by four.

(B)(i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954 shall be one-half the quarterly rate of the special allowance established under subparagraph (A). Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds. This subparagraph shall not apply to loans which were made or insured prior to October 1, 1980, *except that in setting the rate under this division the per centum described in clause (iii) of subparagraph (A) shall be 3.5 per centun.*

(ii) The rate set under division (i) shall not be less than (I) 2.5 per centum per annum in the case of loans for which the applicable interest rate is 7 per centum per annum, (II) 1.5 per centum per annum in the case of loans for which the applicable interest rate is 8 per centum per annum, or (III) 0.5 per centum in the case of loans for which the applicable rate is 9 per centum per annum.

(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with subsection (d) of this section.

(3) The holder of an eligible loan shall be deemed to have a contractual right against the United States, during the life of such loan, to receive the special allowance according to the provisions of this section. Subject to paragraph (4) the special allowance determined for any such three-month period shall be payable at such time, after the close of such period, as may be specified by or pursuant to regulations promulgated under this section.

(4)(A) If payments of the special allowances payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within thirty days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

(B) Such daily interest shall be computed at the daily equivalent rate of the sum of the special allowance rate computed pursuant to paragraph (2) and the interest rate applicable to the loan and shall be paid for the later of (i) the thirty-first day after the receipt of such request for payment from the holder, or (ii) the thirty-first day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

(5) As used in this section, the term "eligible loan" means a loan—

(A)(i) on which a portion of the interest is paid on behalf of the student and for his account to the holder of the loan under section 428(a);

(ii) which is made under section 428B *428C* or 439(o); or

(iii) which was made prior to October 1, 1981; and

(B) which is insured under this part, or made under a program covered by an agreement under section 428(b) of this Act.

(6) The Secretary shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Secretary, at such time or times and in such a manner as he may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

(c)(1) Notwithstanding subsection (b), the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, to any holder shall be reduced by the Secretary by the amount which the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters' payments until the total amount has been deducted.

(2) With respect to any loan (other than loans made under [section 428B and section 439(o))] *sections 428B and 428C* for which a completed note or other written evidence of the loan was sent or delivered to the borrower for signing on or after 10 days after the date of enactment of the Postsecondary Student Assistance Amendments of 1981, each eligible lender under this part is authorized to charge the borrower an origination fee in an amount not to exceed 5 per centum of the principal amount of the loan, which may be deducted from the proceeds of the loan prior to payment to the borrower.

(3) Such origination fee shall not be taken into account for purposes of determining compliance with section 427A.

(4) The lender shall disclose to the borrower the amount and method of calculating the origination fee. For any loan for which the lender is authorized to charge an origination fee and which is made prior to August 1, 1982—

(A) this disclosure need not meet the requirements of the Truth in Lending Act (15 U.S.C. 1601 et seq.) or the disclosure requirements of any State law;

(B) for purposes of such Act, a lender may disclose either in the note or other written evidence of the loan or in a supplementary letter (which need not be signed by the borrower);

(C) for purposes of such Act, the origination fee shall not be taken into account in calculating and disclosing the annual percentage rate; and

(D) a lender or an assignee shall not incur civil liability under section 130 of such Act nor be subject to any administrative enforcement action pursuant to section 108 of such Act for disclosures in connection with such loans.

[(d)(1) In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, to be eligible to receive a special allowance under subsection (b)(2) of this section, the Authority shall submit to the Secretary a plan for doing business. The Secretary shall approve or disapprove such plan within thirty days after the date of its submission. Each such plan shall contain provisions designed to assure that—

[(A) no eligible lender in the area served by the Authority will be excluded from participation in the program of the Authority and all eligible lenders may participate in the program on the same terms and conditions if eligible lenders are going to participate in the program;

[(B) no director or staff member of the Authority who receives compensation from the Authority may own stock in, or receive compensation from, any agency that would contract to service and collect the loans of the Authority;

[(C) student loans will not be purchased from participating lenders at a premium or discount amounting to more than 1 per centum of the unpaid principal amount borrowed plus accrued interest to the date of acquisition, but a reasonable loan transfer fee may be paid by the purchaser;

[(D) the Authority will, within the limit of funds available and subject to the applicable State and Federal law, make loans to, or purchase loans incurred by, all eligible students who are residents of, or who attend an eligible institution within, the area served by the Authority;

[(E) the Authority has a plan under which the Authority will pursue the development of new lender participation in a continuing program of benefits to students together with assurances of existing lender commitments to the program;

[(F) there will be an annual audit of the Authority by a certified public accounting firm which will include review of compliance by the Authority with the provisions of the plan; and

[(G) the Authority will not issue obligations for amounts in excess of the reasonable needs for student loan credit within the area served by the Authority, after taking into account existing sources of student loan credit in that area.

[(2) In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, to be eligible to receive a special allowance under subsection (b)(2) of this section on any such loans, the Authority shall not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the Authority, length of the borrower's educational program, or the borrower's academic year in school.]

[(e)] *(d)* The Secretary shall adopt or amend appropriate regulations pertaining to programs carried on under this part to prevent, where practicable, any practices which he finds have denied loans to a substantial number of eligible students.

STUDENT LOAN MARKETING ASSOCIATION

SEC. 439. (a) The Congress hereby declares that it is the purpose of this section (1) to establish a private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for student loans, including loans which are insured by the Secretary under this part or by a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b), and which will provide liquidity for student loan investments; (2) in order to facilitate secured transactions involving student loans, to provide for perfection of security interests in student loans either through the taking of possession or by notice filing; and (3) to assure nationwide the establishment of adequate loan insurance programs for students, to provide for an additional program of loan insurance to be covered by agreements with the Secretary.

(b)(1) There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the "Association"). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

(2) The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(3) There is hereby authorized to be appropriated to the Secretary $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the

maturity of such advances, adjusted to the nearest one-eighth of 1 per centum, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

(c)(1) The Association shall have a Board of Directors which shall consist of twenty-one persons, one of whom shall be designated Chairman by the President.

(2) An interim Board of Directors shall be appointed by the President, one of whom he shall designate an interim Chairman. The interim Board shall consist of twenty-one members, seven of whom shall be representative of banks or other financial institutions which are insured lenders pursuant to this section, seven of whom shall be representative of educational institutions, and seven of whom shall be representative of the general public. The interim Board shall arrange for an initial offering of common and preferred stocks and take whatever other actions are necessary to proceed with the operations of the Association.

(3) When, in the judgment of the President, sufficient common stock of the Association has been purchased by educational institutions and banks or other financial institutions, the holders of common stock which are educational institutions shall elect seven members of the Board of Directors and the holders of common stock which are banks or other financial institutions shall elect seven members of the Board of Directors. The President shall appoint the remaining seven directors, who shall be representative of the general public.

(4) At the time the events described in paragraph (3) have occurred, the interim Board shall turn over the affairs of the Association to the regular Board so chosen or appointed.

(5) The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

(6) The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

(d)(1) The Association is authorized, subject to the provisions of this section—

(A) pursuant to commitments or otherwise to make advances on the security of, purchase, or repurchase, service, sell or resell, offer participations, or pooled interests or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Secretary under this part or by a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b);

(B) to buy, sell, hold, underwrite, and otherwise deal in obligations, if such obligations are issued, for the purpose of making or purchasing insured loans, by a State or nonprofit private institution or organization which has an agreement with the Secretary under section 428(b) or by an eligible lender in a State described in section 435(g)(1)(D) or (F);

(C) to undertake a program of loan insurance pursuant to agreements with the Secretary under sections 428 and [428(A), and except with respect to loans under section 439(o),] *428A, and except with respect to loans under section 428C* the Secretary may enter into an agreement with the Association for such purpose only if the Secretary determines that (i) eligible borrowers are seeking and unable to obtain loans under this part, and (ii) no State or nonprofit private institution or organization having an agreement with the Secretary for a program of loan insurance under this part is capable of or willing to provide a program of loan insurance for such borrowers; and

(D) to undertake any other activity which the Board of Directors of the Association determines to be in furtherance of the programs of insured student loans authorized under this part or will otherwise support the credit needs of students. *except that—*

(i) in carrying out all such activities the purpose shall always be to provide secondary market and other support for lending programs offered by other organizations and not to replace or compete with such other programs;

(ii) nothing in this clause (D) shall be deemed to authorize the Association to acquire, own, operate, or control any bank, savings and loan association, savings bank or credit union; and

(iii) not later than 30 days prior to the initial implementation of a program undertaken pursuant to this clause (D), the Association shall advise the Chairman and the Ranking Member on the Committee on Human Resources of the Senate and the Chairman and the Ranking Member of the Committee on Education and Labor of the House of Representatives in writing of its plans to offer such program and shall provide information relating to the general terms and conditions of such program.

The Association is further authorized to undertake any activity with regard to student loans which are not insured or guaranteed as provided for in this subsection as it may undertake with regard to insured or guaranteed student loans. Any warehousing advance made on the security of such loans shall be subject to the provisions of paragraph (3) of this subsection to the same extent as a warehousing advance made on the security of insured loans.

(2) Any warehousing advance made under paragraph (1) of this subsection shall be made on the security of (A) insured loans, (B)

marketable obligations and securities issued, guaranteed or insured by, the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (C) marketable obligations issued, guaranteed, or insured by any agency, instrumentality or corporation of the United States for which the credit of such agency, instrumentality or corporation is pledged for the repayment of principal and interest thereof, in an amount equal to the amount of such advance. The proceeds of any such advance secured by insured loans shall either be invested in additional insured loans or the lender shall provide assurances to the Association that during the period of the borrowing it will maintain a level of insured loans in its portfolio not less than the aggregate outstanding balance of such loans held at the time of the borrowing. The proceeds from any such advance secured by collateral described in clauses (B) and (C) shall be invested in additional insured student loans.

(3) Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in insured student loans created on behalf of the Association or any eligible lender as defined in section 435(a) may be perfected either through the taking of possession of such loans or by the filing of notice of such security interest in such loans in the manner provided by said State law for perfection of security interests in accounts.

(4) Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.

(e) The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security or purchase student loans pursuant to subsection (d) only after the Association is assured that the lender (A) does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that this clause shall not apply in the case of a loan made by a credit union, savings and loan association, mutual savings bank, institution of higher education, or any other lender with less than $75,000,000 in deposits, and (B) does not discriminate on the basis of race, sex, color, creed, or national origin.

(f)(1) The Association shall have common stock having such par value as may be fixed by its Board of Directors from time to time which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part or who are eligible institutions, as defined in section 435(a), other than an institution outside of the United States.

(2) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of Directors. Voting shall be by classes as described in subsection (c)(3).

(3) The maximum number of shares of common stock that the Association may issue and have outstanding at any one time shall

be fixed by the Board of Directors from time to time. Any common share issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(4) To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on common stock and nonvoting common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock and nonvoting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

(5) The Association is authorized to issue nonvoting common stock having such par value as may be fixed by its Board of Directors from time to time. Any nonvoting common stock shall be freely transferable, except that, as to the Association, it shall be transferable only on the books of the Association.

(g)(1) The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(2) The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

(3) In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

(h)(1) The Association is authorized with the approval of the Secretary of Education and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. The authority of the Secretary of Education to approve the issuance of such obligations is limited to obligations issued by the Association and guaranteed by the Secretary pursuant to paragraph (2) of this subsection. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein. The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank.

(2) The Secretary is authorized, prior to October 1, 1984, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury. Nothing in this section shall be construed so as to authorize the Secretary of Education or the Secretary of the Treasury to limit, control, or constrain programs of the Association or support of the Guaranteed Student Loan Program by the Association.

(3) To enable the Secretary to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary

of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is authorized to be appropriated to the Secretary such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

(4) Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Education or the Secretary of the Treasury, the Secretary of Education or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than sixty days unless, prior to the end of such period, the Secretary of Education and the Secretary of the Treasury submit to the Congress a detailed explanation of reasons for doing so.

(5) The Secretary of the Treasury is authorized to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions,

purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(6) Notwithstanding any other provision of law the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 428 or 429 of this part, to the Federal Financing Bank.

(i) The Association shall have power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them and fix the penalty thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) The accounts of the Association shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

(k) A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than six months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary, and to the Association.

(l) All obligations issued by the Association including those made under subsection (d)(4) shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States. The obligations of the Association shall be deemed to be obligations of the United States for purposes of section 3701 of the Revised Statutes (31 U.S.C. 742). For the purpose of the distribution of its property pursuant to section 726 of title 11, United States Code, the Association shall be deemed a person within the meaning of such title. The priority established in favor of the United States by section 3466 of the Revised Statutes (31 U.S.C. 191) shall not establish a priority over the indebtedness of the Association issued or incurred on or before September 30, 1988.

(m) In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

(n) The Association, shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during each year.

(o)(1)(A) The Association or its designated agent may, upon request of a borrower who has received loans under this title from two or more programs or lenders, or has received any other federally insured or guaranteed student loan, and where the borrower's aggregate outstanding indebtedness is in excess of $5,000, or where the borrower's aggregate outstanding indebtedness is in excess of $7,500 from a single lender under this part, make, notwithstanding any other provision of this part limiting the maximum insured principal amount for all insured loans made to a borrower, a new loan to the borrower in an amount equal to the unpaid principal and accrued unpaid interest on the old loans. The proceeds of the new loan shall be used to discharge the liability on such old loans.

(B) The Association in making loans pursuant to this subsection in any State served by a State agency or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b) or an eligible lender in a State described in section 435(g)(1) (D) or (F) may designate as its agent such agency, institution, organization, or lender to perform such functions as the Association determines appropriate. Any agreements made pursuant to this subparagraph shall be on such terms and conditions as agreed upon by the Association and such agency, institution, organization, or lender.

(2) Loans made pursuant to this subsection shall be insurable either by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1) or by a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b), except that such State or nonprofit private institution or organization shall provide the Association with a certificate of comprehensive insurance coverage. The terms of loans made under this subsection shall be such as may be agreed upon by the borrower and the Association and meet the requirements of section 427, except that (A) the ten-year maximum period referred to in section 427(a)(2)(B) may be extended to no more than twenty years, and (B) clause (ii) of section 427(a)(2)(B) shall not be applicable.

(3)(A) Notwithstanding any other provision of this part, the Association, with the agreement of the borrower, may establish such repayment terms as it determines will promote the objectives of this subsection including, but not limited to, the establishment of graduated, income sensitive repayment schedules.

(B) For any borrower who has received two or more loans under this part bearing interest at the rate of 9 per centum per annum on the unpaid principal balance of the loan and who requests a new loan under this subsection for the purpose of consolidation on a date after the date on which the Secretary has made a determination under section 427A(b), the rate of interest on such new loan shall not exceed 8 per centum per annum on the unpaid principal balance of such new loan.

(4) The Association shall develop a program to ensure the dissemination of information to students, lenders, and institutions of higher education regarding the loans authorized by this subsection.

(5) The authority of the Association to make loans under this section shall terminate on November 1, 1983.

(p)(1) The Association shall make advances in each fiscal year from amounts available to it to each State agency, nonprofit institution or organization, and eligible lender described in subsection 428(h)(1) which has an agreement with the Association which sets forth that advances are necessary to enable such agency, institution, organization or lender to make student loans in accordance with section 428(h) of this title and that such advances will be repaid to the Association in accordance with such terms and conditions as may be set forth in the agreement and agreed to by the Association and such agency, institution, organization, or lender. Advances made under this subsection shall not be subject to section 439(d)(2) of this Act.

(2) No advance may be made under this subsection unless the State agency or nonprofit private institution, organization, or lender makes an application to the Association, which shall be accompanied by such information as the Association determines to be reasonably necessary.

(q)(1)(A) Whenever the Secretary determines that eligible borrowers in a State not served by a State agency or nonprofit private institution or organization having an agreement pursuant to section 428(b), or an eligible lender in a State described in section 435(g)(1)(D) or (F) are seeking and are unable to obtain loans under this part, the Association or its designated agent may begin making loans in accordance with this subsection at the request of the Secretary. The Association shall give preference to such States in making loans under this subsection.

(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1).

(2)(A) Whenever the Secretary, after consultation with, and with the agreement of, representatives of the agency in a State or nonprofit private institution or organization having an agreement pursuant to section 428(b), or an eligible lender in a State described in section 435(g)(1)(D), determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its designated agent may begin making loans in accordance with this subsection at the request of the Secretary.

(B) Loans made pursuant to this subsection shall be insurable by the agency identified in subparagraph (A) having an agreement pursuant to section 428(b). For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

(3) The Association or its designated agent shall cease making loans under this part in any State at such time as it is determined by the Secretary, with regard to loans made under paragraph (1), or by any party to the agreement required by paragraph (2), that—

(A) the conditions which caused the implementation of this subsection have ceased to exist: or

(B) the implementation of this subsection has either (i) further reduced the availability of loans from other sources in the applicable geographical area, or (ii) inhibited the formation in a State of an agency which would have an agreement pursuant to section 428(b) of this part which would have the responsibility of developing local sources of funds for student loans.

PART C—WORK-STUDY PROGRAMS

PURPOSE; APPROPRIATIONS AUTHORIZED

SEC. 441. (a) The purpose of this part is to stimulate and promote the part-time employment of students, particularly students who are in need of earnings from employment to pursue courses of study at eligible institutions.

[(b) There are authorized to be appropriated for carrying out this part $670,000,000 for fiscal year 1981, $720,000,000 for fiscal year 1982, $760,000,000 for fiscal year 1983, $800,000,000 for fiscal year 1984, and $830,000,000 for fiscal year 1985.]

(b) There are authorized to be appropriated for carrying out this part $622,125,000 for fiscal year 1987, $653,231,000 for fiscal year 1988, $685,893,000 for fiscal year 1989, $720,187,000 for fiscal year 1990, and $756,197,000 for fiscal year 1991.

[ALLOTMENTS TO STATES

[SEC. 442. (a) From the sums appropriated to carry out this part for a fiscal year, the Secretary shall (1) allot not to exceed 1 per centum among Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands according to their respective needs for assistance under this part, and (2) reserve the amount provided by subsection (f). Ninety per centum of the remainder of such sums shall be allotted among the States as provided in subsection (b).

[(b) Of the sums being allotted under this subsection—

[(1) one-third shall be allotted by the Secretary among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of persons enrolled on a full-time basis in institutions of higher education in such State bears to the total number of persons enrolled on a full-time basis in institutions of higher education in all the States.

[(2) one-third shall be allotted by the Secretary among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of high school graduates (as defined in section 103(d)(3) of the Higher Education Facilities Act of 1963) of such State bears to the total number of such high school graduates of all the States, and

[(3) one-third shall be allotted by him among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of related children under eighteen years of age living in families with annual incomes of less than $3,000 in such State bears to the number of related children under eighteen years of age living in families with annual incomes of less than $3,000 in all the States.

[(c) Sums remaining after making the allotments provided for in other provisions of this section shall be allotted among the States by the Secretary in accordance with equitable criteria established by him which shall be designed to achieve a distribution of the sums appropriated to carry out this part among the States which will most effectively carry out the purpose of this part, except that where a State's allotment under subsection (b) for a fiscal year is less than its allotment under that subsection for the fiscal year ending June 30, 1972, before he makes any other allotments under this subsection, the Secretary shall allot sufficient additional sums to such State under this sentence to make the State's allotment for that year under subsection (b) equal to its allotment under such subsection for the fiscal year ending June 30, 1972. Sums allotted to a State under this subsection shall be consolidated with, and become a part of, its allotment from the same appropriation under subsection (b).

[(d)(1) The amount of any State's allotment which has not been granted to an eligible institution under section 443 at the end of the fiscal year for which appropriated shall be reallotted by the Secretary in such manner as he determines will best assist in achieving the purposes of this Act, except that the Secretary shall give preference for the first 50 per centum of such reallotments to eligible institutions for use for initiating, improving, and expanding programs of cooperative education conducted in accordance with title VIII of this Act. Amounts reallotted under this subsection shall be available for making grants under section 443 until the close of the second fiscal year next succeeding the fiscal year for which appropriated.

[(2) The requirement for preference under reallotment contained in the exception of the first sentence of paragraph (1) of this subsection shall be made upon application by the eligible institution to the Secretary in such manner and such form as the Secretary may require. The Secretary shall allot funds under such preference based upon the ratio of the number of students assisted under the cooperative education program authorized by title VIII for the fiscal year for which the determination is made enrolled in the eligible institution making application under this paragraph to the number of such students for such year enrolled in all eligible institutions applying under this part.

[(e) For purposes of this section, the term "State" does not include Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

[(f) From the appropriation for this part for each fiscal year the Secretary shall reserve an amount to provide work-study assistance to students who reside in, but who attend eligible institutions outside of, American Samoa or the Trust Territory of the Pacific Islands. The amount so reserved shall be allotted to eligible institutions and shall be available only for the purpose of providing work-study assistance to such students.]

APPORTIONMENT

SEC. 442. (a)(1)(A) From the sums appropriated pursuant to section 441(b) for any fiscal year which are equal to or less than the amount appropriated for this part for fiscal year 1985, the Secretary shall apportion to each institution of higher education participating in the grant program under this part an amount equal to the amount so appropriated multiplied by the eligible institution's apportionment percentage.

(B) For the purpose of subparagraph (A) of this paragraph, an eligible institution's apportionment percentage is the percentage which the amount the institution of higher education was eligible to receive from appropriations made in fiscal year 1985 under this part bears to the total amount available under this part for that year.

(2)(A) In any fiscal year in which the amount appropriated for this part exceeds the amount appropriated for this part in fiscal year 1985, the Secretary shall apportion to each institution of higher education participating in the grant program under this part an amount which bears the same ratio to such excess as the number of eligible students who are enrolled full time and the fulltime equivalent of the number of eligible students enrolled part time in the institution of higher education, bears to the total number of such students in all institutions of higher education.

(B) For the purpose of subparagraph (A) of this paragraph, the term 'eligible students' means students who were eligible for the work study program under this part for the fiscal year preceding the fiscal year for which the determination is made.

(b) If the Secretary determines that the sums apportioned to any institution of higher education under subsection (a) for any fiscal year exceed the aggregate of the amounts that the Secretary determines to be required by that institution for that fiscal year, the Secretary shall reapportion such excess, from time to time, on such date or dates as the Secretary shall fix, to other institutions of higher education in such manner as the Secretary determines will best assist in achieving the purposes of this part.

GRANTS FOR WORK-STUDY PROGRAMS

SEC. 443. (a) The Secretary is authorized to enter into agreements with institutions of higher education under which the Secretary will make grants to such institutions to assist in the operation of work-study programs as provided in this part.

(b) An agreement entered into pursuant to this section shall—

(1) provide for the operation by the institution of a program for the part-time employment of its students in work for the institution itself [except in the case of a proprietary institution of higher education] or work in the public interest for a Federal, State, or local public agency or private nonprofit organization under an arrangement between the institution and such agency or organization, and such work—

(A) will not result in the displacement of employed workers or impair existing contracts for services;

(B) will be governed by such conditions of employment as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, and proficiency of the employee;

(C) does not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship; and

(D) will not pay any wage to students employed under this subpart that is less than the current Federal minimum wage as mandated by section 6(a) of the Fair Labor Standards Act of 1938;

(2) provide that funds granted an institution of higher education, pursuant to section 443, may be used only to make payments to students participating in work-study programs, except that

(A) an institution may use not to exceed 10 per centum of the funds granted to the institution in any fiscal year to carry out the work study program described in section 448 at the increased Federal share specified in clause (6)(B) of this subsection, and (B) an institution may use a portion of the sums granted to it to meet administrative expenses in accordance with section 489 of this Act, may use a portion of the sums granted to it to meet the cost of a job location and development program in accordance with section 447 of this part, and may transfer funds in accordance with the provisions of section 488 of this Act;

(3) provide that in the selection of students for employment under such work-study program, only students who demonstrate financial need in accordance with the provisions of section 482, and who meet the requirements of section 484 will be assisted; [except that each eligible institution may reserve and award not more than 10 per centum of the funds made available under this part for each fiscal year for less-than-half-time students who are determined by the institution to be in need of such grants and who meet the requirements of section 484, other than the requirement of clause (2) of section 484(a);]

(4) provide that no student in a work-study program under this part shall be required to terminate that employment during a semester (or other regular enrollment period) at the time income derived from any employment (including work-study or non-work-study or both) is in excess of the determination of the amount of such student's need for that semester under clause (3) of this subsection, but when such excess income equals $200 or more, continued employment under a work-study program shall not be subsidized with funds appropriated under this part;

(5) provide that the institution will meet the requirements of section 487(2) of this Act (relating to maintenance of effort);

(6) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement will not exceed 80 per centum of such compensation; except that *(A)* the Federal share may exceed 80 per centum of such compensation if the Secretary determines, pursuant to regulations adopted and promulgated by him establishing objective criteria for such determinations, that a Feder-

al share in excess of 80 per centum is required in furtherance of the purposes of this part; *and (B) the Federal share of the compensation of the students employed in the work study for community service-learning programs described in section 448 from funds available under clause (2)(A) in accordance with the agreement will not exceed 90 per centum of such compensation;*

(7) include provisions to make employment under such work-study program reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof, and to make equivalent employment offered or arranged by the institution reasonably available (to the extent of available funds) to all students in the institution who desire such employment;

(8) provide assurances that employment made available from funds under this part will, to the maximum extent practicable, complement and reinforce the educational program or vocational goals of each student receiving assistance under this part; [and]

(9) provide assurances, in the case of each proprietary institution, that students attending the proprietary institution receiving assistance under this part may be employed by the institution in jobs—

(A) on campus only;

(B) solely related to the students' educational objectives; and

(C) furnishing student services, as determined by the Secretary pursuant to regulations, except that no student shall be employed in any position that would involve the solicitation of other potential students to enroll in the school; and

[(9)]*(10)* include such other provisions as the Secretary shall deem necessary or appropriate to carry out the purposes of this part.

SOURCES OF MATCHING FUNDS

SEC. 445. Nothing in this part shall be construed as restricting the source (other than this part) from which the institution may pay its share of the compensation of a student employed under a work-study program covered by an agreement under this part, and such share may be paid to such student in the form of services and equipment (including tuition, room, board, and books) furnished by such institution.

[EQUITABLE DISTRIBUTION OF ASSISTANCE]

AVAILABILITY OF ASSISTANCE

SEC. 446. [*(a)* The Secretary shall establish criteria designed to achieve such distribution of assistance under this part among institutions of higher education within a State as will most effectively carry out the purposes of this Act. The criteria established under this subsection shall not result in any institution's receiving an amount less than the institution used under this section for fiscal year 1979, unless there is a substantial decline in the student enrollment of the institution.]

[(b)**]***(a)* Of the sums granted to an eligible institution under this part for any fiscal year, 10 per centum may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out programs under this part. Any of the sums so granted to an institution for a fiscal year which are not needed by that institution to operate work-study programs during that fiscal year, and which it does not wish to use during the next fiscal year as authorized in the preceding sentence, shall remain available to the Secretary for making grants under section 443 to other institutions **[**in the same State**]** until the close of the second fiscal year next succeeding the fiscal year for which such funds were appropriated.

[(c)**]***(b)* Up to 10 per centum of the sums the Secretary determines an eligible institution may receive from funds which have been appropriated for a fiscal year may be used by the Secretary to make grants under this part to such institution for expenditure during the fiscal year preceding the fiscal year for which the sums were appropriated.

JOB LOCATION AND DEVELOPMENT PROGRAMS

SEC. 447. (a) **[**The Secretary is authorized to enter into agreements with eligible institutions under which such institution may use not more than 10 per centum or $25,000 of its allotment under section 446, whichever is less, to establish or expand a program under which such institution, separately, in combination with other eligible institutions, or through a contract with a nonprofit organization, locates and develops jobs for currently enrolled students which are suitable to the scheduling and other needs of such students.**]** *The Secretary is authorized to enter into agreements with eligible institutions under which such institution may use not more than 10 percent or $20,000 of its allotment under section 446, whichever is less, to establish or expand a program under which such institution, separately or in combination with other eligible institutions and through formal or informal consultation with local nonprofit, governmental, educational, and community-based organizations, locates and develops community services jobs for students eligible under this part which are suitable to the scheduling needs, and to the maximum extent practicable, complement and reinforce the educational programs or vocational goals of such students.*

(b) Agreements under subsection (a) shall—

(1) provide that the Federal share of the cost of any program under this section will not exceed 80 per centum of such cost;

(2) provide satisfactory assurance that funds available under this section will not be used to locate or develop jobs at an eligible institution**[**;**]** *unless such jobs directly relate to the objectives described in subsection (a) of this section;*

(3) provide satisfactory assurance that the institution will continue to spend in its own job location and development programs, from sources other than funds received under this section, not less than the average expenditures per year made during the most recent three fiscal years preceding the effective date of the agreement;

(4) provide satisfactory assurance that funds available under this section will not be used for the location or development of jobs for students to obtain upon graduation, but rather for the location and development of jobs available to students during and between periods of attendance at such institution;

(5) provide satisfactory assurance that the location or development of jobs pursuant to programs assisted under this section will not result in the displacement of employed workers or impair existing contracts for services;

(6) provide satisfactory assurance that Federal funds used for the purposes of this section can realistically be expected to help generate student wages exceeding in the aggregate the amount of such funds and that if such funds are used to contract with another organization, appropriate performance standards are part of such contract; and

(7) provide that the institution will submit to the Secretary an annual report on the uses made of funds provided under this section and an evaluation of the effectiveness of such program in benefiting the students of such institution.

(c) An eligible institution may use funds, reserved under subsection (a) of this Act but not used, to pay wages to students who are engaged in community services work learning jobs pursuant to section 448.

(d) For the purpose of this section, the term "community services" means services which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health, care, child, care, literacy training, education, housing and neighborhood improvement, rural development, and community improvement.

WORK STUDY FOR COMMUNITY SERVICE-LEARNING ON BEHALF OF LOW-INCOME INDIVIDUALS AND FAMILIES

SEC. 448. (a) The purpose of this section is to encourage and enable institutions of higher education to develop work study programs involving eligible students in community service-learning designed to develop, improve, or expand services for low-income individuals and families or to solve particular problems related to the needs of low-income individuals.

(b) For the purpose of this section—

(1) "community service-learning" means a program of student work that—

(A) provides tangible community services for or on behalf of low-income individuals or families; and

[(B) provides participating students with work-learning opportunities related to their educational or vocational programs or goals; and]

(B) to the maximum extent practicable, provides participating students with work-learning opportunities which complement and reinforce their educational programs or vocational goals; and

[(2) "community services" means direct service, planning or applied research activities designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health care, education, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement.]

(2) "community services" means services which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health care, child care, literacy training, education, housing and neighborhood improvement, rural development, and community improvement.

(c) Each institution participating under this part may use funds made available under the last sentence of section 489(a) to conduct that institution's program of community service-learning, including—

(1) development of mechanisms to assure the academic quality of the student experience,

(2) assuring student access to educational resources, expertise, and supervision necessary to achieve community service objectives, and

(3) collaboration with public and private nonprofit agencies in the planning, *development* and administration of such programs.

PART E—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

APPROPRIATIONS AUTHORIZED

SEC. 461. (a) The Secretary shall carry out a program of stimulating and assisting in the establishment and maintenance of funds at institutions of higher education for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions.

[(b)(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $400,000,000 for each of the fiscal years 1981 and 1982, $475,000,000 for fiscal year 1983, $550,000,000 for fiscal year 1984, and $625,000,000 for fiscal year 1985, except that no funds are authorized to be appropriated for any fiscal year which begins after there has been a capital distribution under section 466(a).]

(b)(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be apropriated $228,356,000 for fiscal year 1987, $239,774,000 for fiscal year 1988, $251,763,000 for fiscal year 1989, $264,351,000 for fiscal year 1990, and $277,568,000 for fiscal year

1991, except that no funds are authorized to be appropriated for any fiscal year which begins after there has been a capital distribution under section 466(a).

(2) In addition there are hereby authorized to be appropriated such sums for fiscal year **[**1985**]** *1991* and each of the five succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, **[**1985**]** *1991* to continue or complete courses of study.

(c) Any sums appropriated pursuant to subsection (b) for any fiscal year shall be available for apportionment pursuant to section 462 and for payments of Federal capital contributions therefrom to institutions of higher education which have agreements with the Secretary under section 463. Such Federal capital contributions and all contributions from such institutions shall be used for the establishment, expansion, and maintenance of student loan funds.

APPORTIONMENT OF APPROPRIATIONS

SEC. 462. **[**(a)(1) From 90 per centum of the sums appropriated pursuant to section 461(b)(1) for any fiscal year, the Secretary shall apportion to each State an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in institutions of higher education, as determined by the Secretary for the most recent year for which satisfactory data are available to him, in such State, bears to the total number of persons so enrolled in all the States. The remainder of the sums so appropriated shall be apportioned among the States by the Secretary in accordance with equitable criteria which he shall establish and which shall be designed to achieve a distribution of the sums so appropriated among the States which will most effectively carry out the purpose of this part, except that where any State's apportionment under the first sentence for a fiscal year is less than its allotment under section 202(a) of the National Defense Education Act of 1958 for the fiscal year ending June 30, 1972, before he makes any other apportionments under this sentence, the Secretary shall apportion sufficient additional sums to such State under this sentence to make the State's apportionment for that year under this paragraph equal to its allotment for the fiscal year ending June 30, 1972, under such section 202(a). Sums apportioned to a State under the preceding sentence shall be consolidated with, and become a part of, its apportionment from the same appropriation under the first sentence of this paragraph.

(2) Any sums appropriated pursuant to section 461(b)(2) for any fiscal year shall be apportioned among institutions of higher education in such a manner as the Secretary determines will best accomplish the purpose for which they were appropriated.**]** *(a)(1)(A) From the sums appropriated pursuant to section 461(b)(1) for any fiscal year which are equal to or less than the amount appropriated for this part for fiscal year 1985, the Secretary shall apportion to each institution of higher education participating in the loan program under this part an amount equal to the amount so appropriated multiplied by the eligible institution's apportionment percentage.*

(B) For the purpose of subparagraph (A) of this paragraph, an eligible institution's apportionment percentage is the percentage which the amount the institution of higher education was eligible to receive from appropriations made in fiscal year 1985 under this part bears to the total amount available under this part for that year.

(2)(A) In any fiscal year in which the amount appropriated for this part exceeds the amount appropriated for this part in fiscal year 1985, the Secretary shall apportion to each institution of higher education participating in the loan program under this part an amount which bears the same ratio to such excess as the number of eligible students who are enrolled full time and the full-time equivalent of the number of eligible students enrolled part time in the institution of higher education, bears to the total number of such students in all institutions of higher education.

(B) For the purpose of subparagraph (A) of this paragraph, the term "eligible students" means students who were eligible to receive a loan under this part for the fiscal year preceding the fiscal year for which the determination is made.

(3) If the Secretary determines that the sums apportioned to any institution of higher education under paragraphs (1) and (2) for any fiscal year exceed the aggregate of the amounts that the Secretary determines to be required by that institution for that fiscal year, the Secretary shall reapportion such excess, from time to time, on such date or dates as the Secretary shall fix, to other institutions of higher education in such manner as the Secretary determines will best assist in achieving the purposes of this part.

(b)(1) Any institution of higher education desiring to receive payments of Federal capital contributions [from the apportionment of the State in which it is located] for any fiscal year shall make an agreement under section 463 and shall submit an application therefor to the Secretary, in accordance with the provisions of this part. The Secretary shall, from time to time, set dates before which such institutions must file applications under this section.

(2) The Secretary shall pay to each applicant under this subsection which has an agreement with him under section 463, [from the amount apportioned to the State in which it is located,] the amount requested in such application. Such payment may be made in such installments as the Secretary determines will not result in unnecessary accumulations of capital in the student loan fund of the applicant established under its agreements under section 463.

(c)(1)[(A)] If the total amount of Federal capital contributions requested in the applications [from a State] for any fiscal year exceeds the amount apportioned [to that State,] the request from each institution shall be reduced ratably.

[(B)] *(2)* In case additional amounts *for* become available for payments to student loan funds [in a State in] which requests have been ratably reduced under [subparagraph (A),] *paragraph 1* such requests shall be increased on the same basis as they were reduced, except that no request shall be increased above the request submitted under subsection (b)(1).

[(2) If the amount of an apportionment to a State for any fiscal year exceeds the total amount of Federal capital contributions requested in applications from that State, such excess shall be available for reapportionment from time to time on such date or dates as the Secretary shall fix. From the aggregate of such excess for any fiscal year, the Secretary shall reapportion to each State in which requests were reduced under subparagraph (A) of paragraph (1) an amount which bears the same ratio to such aggregate as the total amount of such reduction in that State bears to the total amount of such reductions in all the States.]

(d)(1) For award year 1987–88, no new Federal capital contribution shall be made to an institution which has a default rate in excess of 20 percent; and for any institution which has a default rate which exceeds 7.5 percent, such institution's new Federal capital allocation shall be reduced in accordance with regulations of the Secretary.

(2) For award year 1988–89 and subsequent award years, no new Federal capital contribution shall be made to an institution which has a default rate in excess of 15 percent; and for any institution which has a default rate which exceeds 5 percent, such institution's new Federal capital allocation shall be reduced in accordance with regulations of the Secretary.

AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

SEC. 463. (a) An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall—

(1) provide for the establishment and maintenance of a student loan fund for the purposes of this part;

(2) provide for the deposit in such fund of—

(A) Federal capital contributions from funds appropriated under section 461;

(B) a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of the Federal capital contributions described in subparagraph (A);

(C) Federal capital contributions from funds provided by the Secretary under section 468;

(D) collections of principal and interest on student loans made from deposited funds other than those described in subparagraph (C);

(E) charges collected pursuant to regulations under section 464(c)(1)(H); and

(F) any other earnings of the funds;

(3) provide that such student loan fund shall be used only for—

(A) loans to students, in accordance with the provisions of this part,

(B) administrative expenses, as provided in subsection (b),

(C) capital distributions, as provided in section 466, and

(D) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 464(c)(1)(H);

(4) provide that where a note or written agreement evidencing a note has been in default for (A) one hundred and twenty

days, in the case of a loan which is repayable in monthly installments, or (B) one hundred and eighty days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Secretary in a report describing the total number of loans from such fund which are in such default, and made to the Secretary at least semiannually;

[(5) provide that where a note or written agreement evidencing a loan has been in default for at least 2 years despite due diligence on the part of the institution in making collection thereon, the institution may assign its rights under such note or agreement to the United States, without recompense, and that in that event any sums collected on such a loan shall be deposited in the general fund of the Treasury;]

(5) provide that where a note or written agreement evidencing a loan has been in default despite due diligence on the part of the institution in attempting collection thereon—

(A) if the institution has knowingly failed to maintain an acceptable collection record with respect to such loan, as determined by the Secretary in accordance with criteria established by regulation, the Secretary may—

(i) require the institution to assign such note or agreement to the Secretary, without recompense; and

(ii) apportion any sums collected on such a loan (less an amount not to exceed 30 per centum of any sums collected to cover the Secretary's collection costs) among other institutions in accordance with section 462; or

(B) if the institution is not one described in clause (A), the Secretary may—

(i) allow such institution to transfer its interest in such loan to the Secretary, for collection, and the Secretary may use any collections thereon (less an amount not to exceed 30 per centum of any sums collected to cover the Secretary's collecton costs) to make allocations to institutions of additional capital contributions in accordance with section 462; or

(ii) allow such institution to refer such note or agreement to the Secretary, without recompense, except that any sums collected on such a loan (less an amount not to exceed 30 per centum of any sums collected to cover the Secretary's collection costs) shall be repaid to such institution no later than 180 days after collection by the Secretary and treated as an additional capital contribution.

(6)(A) provide that collections of principal and interest on student loans made from funds described in paragraph (2)(C), after deduction of any costs of litigation and other servicing and collection costs agreed to by the Secretary in connection with the servicing and collection of such a loan (and interest thereon) or a charge assessed pursuant to regulations under section 464(c)(1)(H), shall be paid to the Secretary at such time and in such manner as the Secretary may prescribe by regulation and shall be deposited in the Treasury of the United States; or

(B) provide that, if an institution of higher education determines not to service and collect student loans made from funds described in paragraph (2)(C), the institution will assign, at the beginning of the repayment period, notes or evidence of obligations of student loans made from funds described in such paragraph to the Secretary;

(7) provide that, notwithstanding any other provision of law, the Secretary will provide to the institution any information with respect to the names and addresses of borrowers or other relevant information which is available to him, from whatever source such information may be derived;

(8) provide assurances that the institution will comply with the provisions of section 463A;

(9) provide that the institution of higher education will make loans first to students with exceptional need; and

[(9)] *(10)* include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part as are agreed to by the Secretary and the institution.

(b)(1) An institution which has entered into an agreement under subsection (a) shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Such payment shall be made in accordance with section 485.

(2) An institution which has entered into an agreement under subsection (a) and has elected to assign the notes or evidence of obligations of student loans in accordance with paragraph (6)(B) of such subsection shall be eligible to receive, from funds available to the Secretary, an amount equal to $10 per academic year for each student enrolled in that institution who in that year received a loan from funds described in paragraph (2)(C) of subsection (a) of this section. Payments received by an institution under this paragraph shall be used for the purpose of offsetting the costs to the institution for the program under this part.

(c)(1) For the purpose of promoting responsible repayment of loans made pursuant to this part, the Secretary shall enter into cooperative agreements with credit bureau organizations to provide for the exchange of information concerning student borrowers concerning whom the Secretary has received a referral pursuant to section 467.

(2) Each cooperative agreement made pursuant to paragraph (1) shall be made in accordance with requirements of section 430(b)(2) except that such agreement shall provide for the disclosure by the Secretary to such organizations, with respect to any loan for which the Secretary is responsible, of—

(A) the date of disbursement and the amount of any such loan;

(B) information concerning collection of any such loan, including information concerning the status of any defaulted loan; and

(C) the date of cancellation of the note upon completion of repayment by the borrower of any such loan.

(3) Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary regarding the status of a borrower's account on a loan made under this part until the later of—

(A) seven years from the date on which the Secretary accepted an assignment or referreal of a loan, or

(B) seven years from the date the Secretary first reported the account to a consumer reporting agency, if that account had not been previously reported by any other holder of the note.

STUDENT LOAN INFORMATION BY ELIGIBLE INSTITUTIONS

SEC. 463A. (a) Each institution of higher education, in order to carry out the provisions of section 463(a)(8), shall, at or prior to the time such institution makes a loan to a student borrower which is made under this part, provide thorough and adequate loan information on such loan to the student borrower. Any disclosure required by this subsection may be made by an institution of higher education as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosures shall include:

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the principal amount of the loan;

(3) the amount of any charges collected by the institution at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

(4) the stated interest rate on the loan;

(5) the yearly and cumulative maximum amounts that may be borrowed;

(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

(7) a statement as to the minimum and maximum repayment term which the institution may impose, and the minimum monthly payment required by law *and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan;*

(8) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(9) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);

(10) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default may be reported to a credit bureau or credit reporting agency;

(11) to the extent practicable, in effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

(12) an explanation of any cost the borrower may incur in the making or collection of the loan.

(b) Each institution of higher education shall enter into an agreement with the Secretary under which the institution will, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower the information required under this subsection. Any disclosure required by this subsection may be made by an institution of higher education either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosures shall include:

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

(c) Such information shall be available without cost to the borrower. The failure of an eligible institution to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary to make payments with respect to such loan.

TERMS OF LOANS

SEC. 464. (a)(1) Loans from any student loan fund established pursuant to an agreement under section 463, to any student by any institution shall, subject to such conditions, limitations, and requirements as the Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

(2) The aggregate of the loans for all years made by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

(A) **[**$12,000**]** *$16,000* in the case of any graduate or professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

(B) **[**$6,000**]** *$8,000* in the case of a student who has successfully completed two years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

(C) **[**$3,000**]** *$4,000* in the case of any other student.

(3) Regulations of the Secretary under paragraph (1) shall be designed to prevent the impairment of the capital student loan funds to the maximum extent practicable and with a view toward the objective of enabling the student to complete his course of study.

(b) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with section 482 and who meets the requirements of section 484.

(c)(1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Secretary) payable quarterly, bimonthly, or monthly, at the option of the institution, over a period beginning six months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Secretary, at least one-half the normal fulltime academic workload, and ending ten years and six months after such date except that such period may begin earlier than six months after such date upon the request of the borrower;

(B) shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

(C)*(i)* may provide, at the option of the institution in accordance with regulations of the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to him from a student loan fund assisted under this part shall be at a rate equal to not less than $30 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than $30 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the ten-year maximum repayment period provided for in clause (A) of this paragraph;

(ii) may provide that the total payments by a borrower for a monthly or similar payment period with respect to the aggregate of all loans held by the institution may, when the amount of a montly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 3 per centum per annum or 4 per centum per annum in the case of any loan made on or after July 1, 1981, or 5 per centum in the case of any loan made on or after October 1, 1981, except that no interest shall accrue (i) prior to the beginning date of repayment determined under clause (A) (i) or (ii) during any period in which repayment is suspended by reason of paragraph (2);

(E) unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation, shall provide that the loan shall be made without security and without endorsement;

(F) shall provide that the liability to repay the loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Secretary.

(G) shall provide that no note or evidence of obligation may be assigned by the lender, except upon the transfer of the borrower to another institution participating under this part (or, if not so participating, is eligible to do so and is approved by the Secretary for such purpose), to such institution, and except as necessary to carry out section 463(a)(6)(B);

[(H) may, pursuant to regulations of the Secretary, provide for an assessment of a charge with respect to the loan for failure of the borrower (i) to pay all or part of an installment when it is due or (ii) to file timely and satisfactory evidence of an entitlement of the borrower to a deferment of repayment benefit or a cancellation benefit under this part; and]

(H) pursuant to regulations of the Secretary, shall provide for an assessment of a charge with respect to the loan for failure of the borrower to pay all or part of an installment when due, which shall include the expenses reasonably incurred in attempting collection of the loan, to the extent permitted by the Secretary, except that no charge imposed under this clause shall exceed 20 per centum of the amount of the monthly payment of the borrower; and

(I) shall contain a notice of the system of disclosure of information concerning default on such loan to credit bureau organizations under section 463(c).

(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period in which the borrower—

(i) is carrying at least one-half the normal full-time academic workload at an institution of higher education or at a comparable institution outside the United States which is approved for this purpose by the Secretary.

(ii) is a member of the Armed Forces of the United States or is an officer in the Commissioned Corps of the Public Health Service;

(iii) is in service as a volunteer under the Peace Corps Act;

(iv) is in service as a volunteer under the Domestic Volunteer Act of 1973;

(v) is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

(vi) is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; or

(vii) is temporarily totally disabled (as defined in section 435(j)), as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled.

The period during which repayment may be deferred by reason of clause (ii), (iii), (iv), (v), or (vii) shall not exceed three years. The period during which repayment may be deferred by reason of clause (vi) shall not exceed two years.

(B) Any period during which repayment is deferred under subparagraph (A) shall not be included in computing the ten-year maximum period provided for in clause (A) or paragraph (1).

(C) No repayment of principal of, or interest on, any loan for any period of study, service, or disability described in subparagraph (A) or any combination thereof shall begin until six months after the completion of such period of study, service, disability, or combination thereof.

(3)(A) The Secretary is authorized, when good cause is shown, to extend, in accordance with regulations, the ten-year maximum repayment period provided for in clause (A) of paragraph (1) with respect to individual loans.

(B) Pursuant to uniform criteria established by the Secretary, the repayment period for any student borrower who during the repayment period is a low-income individual may be extended for a period not to exceed ten years and the repayment schedule may be adjusted to reflect the income of that individual.

[(4) the amount of any charge under clause (G) of paragraph (1) shall not exceed—

[(A) in the case of a loan which is repayable in monthly installments, $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter; and

[(B) in the case of a loan which has a bimonthly or quarterly repayment interval, $3 and $6 respectively, for each such interval or part thereof by which such installment or evidence is late.

The institution may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the institution not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.]

(4) The institution may elect—

(A) to add the amount of any charge imposed under paragraph (1)(H) to the principal amount of the loan as of the first day after the day on which the installment was due and to notify the borrower of the assessment of the charge; or

(B) to make the amount of the charge payable to the institution not later than the due date of the next installment.

(d) An agreement under this part of payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE

SEC. 465. (a)(1) The per centum specified in paragraph (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

(2) Loans shall be canceled under paragraph (1) for service—

(A) as a full-time teacher for service in an academic year in a public or other nonprofit private elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, and which for the purposes of this paragraph and for that year has been determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under section 111(c) of the Elementary and Secondary Education Act of 1965 exceeds 30 per centum of the total enrollment of that school and such determination shall not be made with respect to more than 50 per centum of the total number of schools in the State receiving assistance under such title I;

(B) as a full-time staff member in a preschool program carried on under section 222(a)(1) of the Economic Opportunity Act of 1964 which is operated for a period which is comparable to a full school year in the locality: *Provided,* That the salary of such staff member is not more than the salary of a comparable employee of the local educational agency [or]*;*

(C) as a full-time teacher of handicapped children in a public or other nonprofit elementary or secondary school system [or]

(D) as a member of the Armed Forces of the United States, for services that qualifies for special pay under section 310 of title 37, United States Code, as an area of hostilities; or

(E) as a volunteer under the Peace Corps Act or a volunteer under the Domestic Volunteer Service Act of 1973.

For purposes of this paragraph, the term "handicapped children" has the meaning set forth in section 602(1) of the Education of the Handicapped Act.

(3)(A) The per centum of a loan which shall be canceled under paragraph (1) of this subsection is—

(i) in the case of service described in clause (A), or (C), of paragraph (2), at the rate of 15 per centum for the first or second year of such service, 20 per centum for the third or fourth year of such service, and 30 per centum for the fifth year of such service;

(ii) in the case of service described in clause (B) of paragraph (2) at the rate of 15 per centum for each year of such service;

(iii) in the case of service described in clause (D) of paragraph (2) not to exceed a total of 50 per centum of such loan at the rate of 12½ per centum for each year of qualifying service *and*

(iv) in the case of service described in clause (E) of paragraph (2) at the rate of 15 per centum for the first or second year of such service and 20 per centum for the third or fourth year of such service.

(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be canceled.

(C) Nothing in this subsection shall be construed to authorize refunding of any repayment of a loan.

(4) For the purposes of this subsection, the term "year" where applied to service as a teacher means academic year as defined by the Secretary.

(5) The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of the Internal Revenue Code of 1954.

(b) The Secretary shall pay to each institution for each fiscal year an amount equal to the aggregate of the amounts of loans from its student loan fund which are canceled pursuant to this section for such year, minus an amount equal to the aggregate of the amounts of any such loans so canceled which were made from Federal capital contributions to its student loan fund provided by the Secretary under section 468. None of the funds appropriated pursuant to section 461(b) shall be available for payments pursuant to this subsection.

DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS

SEC. 466. (a) After September 30, 1990, and not later than March 31, 1991, there shall be a capital distribution of the balance of the student loan fund established under this part by each institution of higher education as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to the balance in such fund at the close of September 30, 1990, as the total amount of the Federal capital contributions to such fund by the Secretary under this part bears

to the sum of such Federal contributions and the institution's capital contributions to such fund.

(2) The remainder of such balance shall be paid to the institution.

(b) After March 31, 1991, each institution with which the Secretary has made an agreement under this part, shall pay to the Secretary the same proportionate share of amounts received by this institution after September 30, 1981, in payment of principal and interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the fund or from such payments of principal or interest), as was determined for the Secretary under subsection (a).

(c) Upon a finding by the institution or the Secretary prior to October 1, 1990, that the liquid assets of a student loan fund established pursuant to an agreement under this part exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such institution or to the Secretary, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Secretary or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Secretary to the student loan fund prior to such distribution bear to the sum of such Federal capital contributions and the capital contributions to the fund made by the institution.

(2) The remainder of the capital distribution shall be paid to the institution.

COLLECTION OF DEFAULTED LOANS

[SEC. 467. (a) The Secretary is authorized to attempt to collect any loan, which was made under this part and which is in default, referred to him by an institution, with which he has an agreement under subsection (a) of section 463, on behalf of such institution under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses he may reasonably incur in attempting such collection.

[(b) The Secretary shall continue to attempt to collect any loan assigned under section 463(a) (5) or (6) or referred under subsection (a) of this section until a date which is not earlier than four years after the date of default (determined in a manner consistent with section 430(e)).]

SEC. 467. (a) With respect to any loan—

(1) which was made under this part, and

(2) which is referred, transferred, or assigned to the Secretary by an institution with an agreement under section 463(a).

the Secretary is authorized to attempt to collect such loan by any means authorized by law for collecting claims of the United States (including referral to the Attorney General for litigation) and under *such terms and conditions as the Secretary may prescribe, including reimbursement for expenses reasonably incurred in attempting such collection.*

(b) The Secretary shall continue to attempt to collect any loan referred, transferred, or assigned under paragraph (5)(A), ((5)(B)(i), or (6) of section 463(a) until all appropriate collection efforts, as determined by the Secretary, have been expended.

ALTERNATIVE SOURCE OF FUNDS

SEC. 468. (a)(1) The Secretary shall, not later than April 1 of each fiscal year, issue and have outstanding at any one time notes, debentures, bonds, or other obligations in such amounts as shall be necessary to carry out functions under this part, subject to such annual limitations as may be provided in an appropriation Act with respect to such fiscal year, except that the Secretary shall not issue any such obligation without the prior concurrence of the Secretary of the Treasury as to the terms and conditions of such obligations. The Secretary of the Treasury may direct that any such issuance by the Secretary be sold to the Department of the Treasury for its own account or to the Federal Financing Bank.

(2) The Secretary of the Treasury is authorized and directed to purchase any obligations issued under this section, and for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this section shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. Interest due on obligations of the Secretary held by the Treasury may be deferred, at the discretion of the Secretary, but any such deferred interest shall bear interest at the rate specified in this section. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

(3) All obligations of the Secretary issued under this section shall be fully and unconditionally guaranteed as to principal and interest and shall constitute general obligations of the United States, backed by the full faith and credit of the Government of the United States of America. Such guarantee shall be expressed on the face of all such obligations.

(4) Obligations of the Secretary issued pursuant to this section shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. All stock and obligations issued by the Secretary pursuant to this section shall be deemed to be

exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States.

(5) In order that the Secretary may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this section, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and approved by the Secretary, to be held in the Treasury subject to delivery, upon order of the Secretary. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Secretary shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such notes, debentures, bonds, or other obligations.

(6) All moneys of the Secretary not otherwise employed may be—

(A) deposited with the Treasury of the United States subject to withdrawal by the Secretary, by check drawn on the Treasury of the United States by a Treasury disbursing officer, or

(B) with the approval of the Secretary of the Treasury, deposited in any Federal Reserve bank, or

(C) with the approval of the Secretary of the Treasury, and by authorization of the Secretary, used in the purchase for redemption and retirement of any notes, debentures, bonds, or other obligations issued by the Secretary.

(b)(1) The Secretary shall make payments under this section for any fiscal year to each institution of higher education having an agreement under section 463 on the basis of the estimated needs of that institution for making student loans taking into consideration—

(A) the cost of attendance at that institution,

(B) the financial need of students at that institution to meet the cost of attendance as determined under section 482, and

(C) the financial assistance received by students at that institution under parts A and C of this title, or any other provision of Federal law (other than part B), and other scholarship, grant, work, and loan assistance received by students,

subject to the limitations specified in section 464(a)(2). No application under subsection (c) shall be approved which requests an amount greater than the amount determined under this subsection to be needed by that institution.

(2) If the total amount of Federal capital contributions requested in applications under subsection (c) exceeds the amount available under this section for a fiscal year, the request from each institution shall be ratably reduced, except that no reduction may be made under this sentence to an amount which, together with funds available to the institution of higher education under section 463(a)(2) (A) and (B) for that fiscal year, is less than the amount which was used by that institution for making loans under this part during fiscal year 1980. In case additional amounts become available for such contributions in any fiscal year in which requests have been so reduced, such requests shall be increased on the same basis as they were reduced, except that no such request shall be increased above the amount requested in the application.

(c) Any institution of higher education desiring to receive payments of Federal capital contributions from the apportionment under subsection (b) shall submit an application therefor to the Secretary at such time as the Secretary prescribes.

(d) There are authorized to be appropriated such sums as may be necessary to pay the differential between the rate of return on obligations of the Secretary made under this section and the interest collected on student loans made under this part.

(e) In carrying out the provisions of this part, the Secretary is authorized—

(1) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made under this part;

(2) to enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption;

(3) to conduct litigation in accordance with the provisions of section 432(a)(2); and

(4) to enter into a contract or other arrangement with State or nonprofit agencies and, on a competitive basis, with collection agencies for servicing and collection of loans under this part.

RECAPTURE OF CURRENT BALANCE OF STUDENT LOAN FUNDS

SEC. 469. If, by April 1 of any fiscal year, the Secretary has made available for deposit in student loan funds pursuant to section 463(a)(2)(C) an amount which equals or exceeds $1,000,000,000 to be available for loans for such fiscal year, there shall be collected from each student loan fund established under this part the current balance of such student loan fund as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to the balance in such fund (excluding any portion of such balance which was deposited pursuant to section 463(a)(2)(C)) as the total amount of Federal capital contributions to such fund by the Secretary from funds appropriated under section 461 or under title II of the National Defense Education Act of 1958 bears to the sum of such Federal capital contributions and the institution's capital contribution to such fund. Such amounts shall be deposited in the Treasury of the United States.

(2) The remainder of such balance, excluding any portion of such balance which was deposited pursuant to section 463(a)(2)(C), shall be paid to the institution.

(3) Any portion of such balance which was deposited pursuant to section 463(a)(2)(C) shall be retained in the student loan fund for use in accordance with this part.

PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

DEFINITIONS

SEC. 481. (a)(1) For the purposes of this title, [except subpart 6] *except subpart 7* of part A and part B, the term "institution of higher education" includes, in addition to the institutions covered by the definition contained in section 1201(a)—

(A) a proprietary institution of higher education;

(B) a postsecondary vocational institution;

(C) a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing; and

(D) a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

(2) The term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Secretary.

(b) For the purposes of this section, the term "proprietary institution of higher education" means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1) and (2) of section 1201(a), (3) which does not meet the requirement of clause (4) of section 1201(a), (4) which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, and (5) which has been in existence for at least two years. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution. For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(c) For the purposes of this section, the term "postsecondary vocational institution" means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1), (2), (4), and (5) of section 1201(a), and (3) which has been in existence for at least two years. Such term also includes an educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.

(d) For the purpose of any program under this title, the term "academic year" shall be defined by the Secretary by regulation.

NEED ANALYSIS

[SEC. 482. (a)(1) For the purpose of determining a student's need for financial assistance under this title (other than under subpart 3 of part A and under part B), the Secretary shall publish in the Federal Register, no later than July 1, 1981, April 1, 1982, and on April 1 of each succeeding calendar year, a proposed schedule of expected family contributions for the academic year which begins after July 1 of the calendar year which succeeds such calendar year for various levels of family income, which, together with any amendments published in the Federal Register, no later than September 1, 1981, June 1, 1982, and June 1 of each succeeding year, shall become effective July 1 of the calendar year which succeeds such calendar year, except as is otherwise provided in paragraph (2). During the thirty-day period following publication of a schedule the Secretary shall provide interested parties with an opportunity to present their views and make recommendations with respect to such schedule. Such schedule shall be adjusted annually.

[(2) The schedule of expected family contributions required for each academic year, including any amendments thereto published pursuant to paragraph (1), shall be transmitted to the President of the Senate and the Speaker of the House of Representatives not later than the time of its publication in the Federal Register. If either the Senate or House of Representatives adopts, prior to October 15, 1981, July 15, 1982, or July 15 of any succeeding year, following the submission of such schedule and any amendments thereto as required by this paragraph, a resolution of disapproval of such schedule or amendments, in whole or in part, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House in connection with such resolution. If within fifteen days following the submission of the revised schedule, either the Senate or the House of Representatives again adopts a resolution of disapproval, in whole or in part, of such revised schedule, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. This procedure shall be repeated until neither the Senate nor the House of Representatives adopts a resolution of disapproval. The Secretary shall publish together with each new schedule a statement identifying the recommendations made in either House in connection with such resolution of disapproval and explaining his reasons for the new schedule.

[(3) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall develop a proposed schedule of expected family contributions each year for publication in the Federal Register.

[(b)(1) For the purposes of this section, the term "family contribution" with respect to any student means the amount which the student and his family may be reasonably expected to contribute toward his postsecondary education for the academic year for which the determination is made, as determined in accordance with regulations. In promulgating such regulations, the Secretary shall follow the basic criteria set forth in paragraph (2) of this subsection.

[(2) The basic criteria to be followed in promulgating regulations with respect to expected family contributions are as follows:

[(A) The amount of the effective income of the student or the effective family income of the student's parents.

[(B) The number of dependents of the family of the student.

[(C) The number of dependents of the student's family who are in attendance in a program of postsecondary education and for whom the family may be reasonably expected to contribute for their postsecondary education.

[(D) The amount of the assets of the student and the assets of the student's family.

[(E) Any unusual expenses of the student or his family, such as unusual medical expenses and those which may arise from a catastrophe.

[(F) Any educational expenses of other dependent children in the family.

[(3) For purposes of subparagraph (A) of paragraph (2), the term "effective family income" with respect to a student, means the annual adjusted family income, as determined in accordance with regulations prescribed by the Secretary, received by the parents or legal guardians of the student minus Federal, State and local taxes paid or payable with respect to such income, and includes any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student and one-half any amount paid the student under chapters 34 and 35 of title 38, United States Code. The term "effective family income" includes any effective student income after any offset as determined by regulations prescribed by the Secretary.

[(4) In determining the expected family contribution under this section for any academic year after academic year 1981–1982, the Secretary shall establish a series of assessment rates to be applied to parental discretionary income.

[(5) For the purposes of paragraph (2)(D), the assets shall be determined by—

[(A) excluding all equity in a single principal place of residence from the computation of assets;

[(B) deducting an asset reserve of not less than $10,000 from the net value of all assets; and

[(C) if net assets include farm or business assets, deducting an additional asset reserve of not less than $50,000 from the net assets.

[(c)(1) The Secretary shall promulgate special regulations for determining the expected family contribution and effective family income of an independent student. Such special regulations shall be consistent with the basic criteria set forth in paragraph (2) of subsection (b). In addition, such regulations shall—

[(A) provide that the portion of assets which shall be exempt from assessment for contribution for an independent student who has one or more dependents shall be the same as the portion so exempt for the family of a dependent student;

[(B) provide that the rate of assessment for contribution on that portion of assets of such an independent student which is not exempt under subparagraph (A) shall be the same as the rate applied to the comparable portion of assets of the family of a dependent student;

[(C) in establishing a portion of effective family income which shall be exempt from assessment for contribution by reason of subsistence requirements of independent students who have no dependents, use the same method for computation of such portion for such students as is used for dependent students and for independent students who have dependents;

[(D) in determining the family contribution for an independent student who has one or more dependents, provide that the assessment rate which is to be applied to the student's discretionary income shall be the same as the assessment rate applied to discretionary income of the family of a dependent student; and

[(E) provide that a married student shall be considered independent if, notwithstanding prior dependency status, such student certifies that in the year of application he (i) will not live with parents for more than six weeks; (ii) will not be claimed by parents as a dependent on any tax return filed for purposes of Federal income taxes; and (iii) will not receive more than $750 in support from parents.

[(2) For purposes of this title, the term "independent student" means a student who is determined, pursuant to regulations of the Secretary, to be independent of the parents or legal guardians of the student.

[(d) For the purposes of this title, the term "cost of attendance" means—

[(1) tuition and fees normally assessed a full-time student at the institution at which the student is in attendance;

[(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses;

[(3) an allowance for room and board costs incurred by the student which—

[(A) beginning in academic year 1981–1982 shall be an allowance of not less than $1,100 for a student without dependents residing at home with parents;

[(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board;

[(C) for all other students without dependents, shall be a standard allowance determined by the institution based on the expenses reasonably incurred by such students for room and board; and

[(D) for students with dependents, shall be an allowance based on the expenses reasonably incurred by such students for room and board;

[(4) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, and travel and room and board costs incurred specifically in fulfilling a required period of residential training;

[(5) for a student enrolled in an academic program which normally includes a formal program of study abroad, reasonable costs associated with such study;

[(6) for a student with dependent children, an allowance based on the expenses reasonably incurred for child care; and

[(7) for a handicapped student, an allowance for those expenses related to his handicap, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies.

[(e) Nothing in this section shall prohibit an institution, in individual cases, from adjusting the financial need determination for a student aided under subpart 2 of part A or part C or E of this title if the basis for such adjustment is documented.]

SEC. 482. (a) GENERAL AUTHORITY.—(1) The Secretary, in cooperation with the Advisory Committee on Student Financial Assistance established under section 491 of this title, shall prepare and publish a schedule of expected family contributions for programs under subpart 2 of part A, part B for loans for which an interest subsidy is paid pursuant to section 428, part C, and part E of this title in accordance with the master schedule established under section 482B.

(2) In preparing the schedule of expected family contributions under this section, the Secretary shall, in evaluating the ability of the family to pay and the eligibililty of the student for assistance under the program subject to the schedule, apply the following policies:

(A) Parents of dependent students have a responsibility to finance their children's education to the extent that they are able to do so.

(B) The ability of parents to pay derives from an evaluation of their financial resources at the time their dependent son or daughter applies for assistance.

(C) Both income and assets of the parents and student are considered in arriving at an estimate of a family's ability to contribute to educational costs. Both income and assets of the parent, in the case of a divorced or separated parent, who is responsible for the dependent student are considered in such estimate.

(D) Basic and nondiscretionary expenses for food, shelter, and clothing and obligatory expenditures, such as taxes, are assumed not to be available to the family to pay for the children's educational costs. A portion of the remaining discretionary income is assumed to be available for postsecondary educational expenses.

(E) Students who are dependent on their parents also are expected to contribute to their own educational expenses through their earnings, savings, or other resources (including an $800

minimum contribution) that may be available directly to them, such as veterans' benefits.

(F) Students are expected to contribute a greater proportion of their income and assets for education than their parents.

(G) To qualify as self-supporting, students must meet age or other criteria established in this title.

(H) Students determined to be self-supporting who have not accumulated sufficient personal resources should be able to receive financial assistance to pay for direct educational costs and minimum living costs for themselves and their dependents.

(I) Through a combination of financial aid and personal resources, all self-supporting students and their families should be able to maintain a minimum living standard.

(J) Students with no minor dependent children and their spouses who earn income should be expected to contribute most of that income toward direct and indirect educational expenses and be allowed to retain a portion of that income in order to improve their standard of living.

(K) Self-supporting students with minor dependent children should be expected to contribute the same proportion of income and assets toward direct and indirect educational expenses as families of dependent students.

(L) All self-supporting students and their spouses should be expected to contribute a minimum amount of resources toward their education.

(b) BASIC CRITERIA.—The basic criteria to be followed in promulgating the expected family contribution are as follows:

(1) The total income, including Adjusted Gross Income and other untaxed income, of the student and the student's spouse; or the student and the student's parents, in the case of a dependent student.

(2) Allowances against income shall include:

(A) United States income tax, Social Security taxes paid under sections 1401 and 3101 of the Internal Revenue Code of 1954, and a standard allowance for State income taxes.

(B) A standard living allowance, based on consumption and other living costs for a family at a low standard of living as estimated by the Bureau of Labor Statistics, or a comparable standard as recommended by the Advisory Committee on Student Financial Assistance.

(C) Any unusual medical and dental expenses, and expenses which may arise from a catastrophe such as a natural disaster, of the student and the student's spouse; or the student and the student's parents, in the case of a dependent student.

(D) An allowance for unreimbursed tuition paid for dependent children other than the student enrolled in private elementary or secondary institutions not to exceed for each such child the national average per pupil instructional cost as published by the National Center for Educational Statistics, using the most recent available data.

(E) An allowance for employment-related expenses in the case of a dependent student, when both parents of the stu-

dent are employed or when the family is headed by a single parent who is employed.

(3) The net assets of the student and the student's spouse in the case of an independent student; and the student and the student's parents, in the case of a dependent student, including—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the equity in a principal place of residence;

(C) the net value of investments and other real estate; and

(D) the net worth of a business or farm.

(4) An asset protection allowance based on the age of the older parent or the age of the student, in the case of the independent student.

(5) An $800 mandatory expected minimum contribution for dependent students and for independent students with dependents from savings, summer earnings, or academic year employment. For independent students without dependents the mandatory expected contribution shall be $1,200 for the student and $4,200 for the student's spouse.

(6) The number of dependents in the family of the student, including the student's spouse in the case of an independent student, and the number of dependents in the family of the student, in the case of a dependent student.

(7) The number of dependents in the family of the student who are enrolled in, on at least a half-time basis, a program of postsecondary education.

(8) In the case of an independent student, the marital status of the student and the number of minor dependents in the student's family.

(9) In determining the expected family contribution under this section, a schedule of marginal taxation rates shall be applied to the amount of Adjusted Available Income. Separate taxation rates shall be developed for the parents of dependent undergraduate students, independent students with minor dependents, parents of dependent graduate students, and for independent students without minor dependents.

(c) SEPARATE SCHEDULES.—Separate schedules of expected family contributions shall be developed for independent students and independent students with dependent minor children. Such separate schedules shall be consistent with the basic criteria set forth in subsection (b), except that such schedules shall—

(1) provide that the portion of assets which shall be exempt from assessment for contribution for an independent student who has one or more dependent minor children shall be the same as the portion so exempt for the family of a dependent student;

(2) provide that the rate of assessment for contribution on that portion of assets of such an independent student with minor dependents which is not exempt under subsection (b)(3) shall be the same as the rate applied to the comparable portion of assets of the family of a dependent student; and

(3) in determining the family contribution for an independent student who has one or more dependent minor children, provide that the assessment rate which is to be applied to the student's available income shall be the same as the assessment rate applied to the available income of the family of a dependent student.

(d) Assessment From Adjusted Available Income.—(1) The Adjusted Available Income for the parents of dependent students and for independent students with dependents is assessed according to the following table:

ASSESSMENT FROM ADJUSTED AVAILABLE INCOME (AAI)

If AAI is—	*The Assessment is—*
Less than −$3,409	*−$750*
−$3,409−7,600	*22% of of AAI*
$7,601−$9,500	*$1,672+25% of AAI over $7,600*
$9,501−$11,400	*$2,147+29% of AAI over $9,500*
$11,401−$13,300	*$2,698+34% of AAI over $11,400*
$13,301−$15,200	*$3,344+40% of AAI over $13,300*
$15,201 or more	*$4,104+47% of AAI over $15,200.*

(2) The Available Taxable Income of an independent student (and that student's spouse) with no dependent children is assessed according to the following table:

Family Size	*If ATI is—*	*Assessment and contribution is—*
1	*0 to $8,900*	*70% of ATI*
	$8,901 or more	*$6,230+90% of ATI over $8,900*
2	*0 to $11,970*	*70% of ATI*
	$11,971 or more	*$8,380+90% of ATI over $11,970.*

(3) The Secretary shall, for each subsequent academic year, revise the assessment tables in paragraphs (1) and (2) of this subsection by increasing each dollar amount that refers to Adjusted Available Income or Available Taxable Income, as the case may be, by a percentage equal to the percentage increase in the Consumer Price Index, rounded to the nearest $100.

(e) Cost of Attendance.—For purposes of this title, the term "cost of attendance" means—

(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution of higher education, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution;

(3) an allowance (as determined by the institution) for room and board costs incurred by the student which—

(A) shall be an allowance of not less than $1,500 for a student without dependents residing at home with parents;

(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard al-

lowance determined by the institution based on the amount assessed its residents for room and board; and

(C) for all other students shall be an allowance based on the expenses reasonably incurred by such students for room and board, except that the amount may not be less than $2,500;

(4) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;

(5) for a student enrolled in an academic program which normally includes a formal program of study abroad, reasonable costs associated with such study;

(6) an allowance based on actual expenses for child care for minor dependent children who require care, during the hours the student is in class or engaged in academic-related activities or in transit; and

(7) for a handicapped student, an allowance for those expenses related to his handicap, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies.

(f) INDEPENDENT STUDENT.—(1) For the purpose of this title, the term, "independent student," means a student who is determined, pursuant to regulations of the Secretary, to be independent of the parents or legal guardians of the students.

(2) In carrying out paragraph (1) of this subsection, the Secretary shall apply the criteria specified in paragraph (3) for the relevant years described in paragraph (4).

(3) A student qualifies as an independent student for an award year if the student—

(A) does not, during any of the relevant years described in paragraph (4), live for more than 6 weeks in the home of the student's parent for whom income must be reported;

(B) is not, for any of the relevant years described in paragraph (4), claimed as a dependent for Federal income tax purposes by such parent; and

(C) does not, during any of the relevant years described in paragraph (4), receive financial assistance of more than $750 from such parent.

(4) Except as provided in paragraph (5), to qualify as an independent student for any award year—

(A) an unmarried student who has not attained 23 years of age by January 1 of the first calendar year of the award year must satisfy the criteria set forth in paragraph (3) for the first calendar year of an award year and the 2 preceding calendar years;

(B) an unmarried student who has attained 23 years of age by January 1 of the first calendar year of the award year must satisfy the criteria set forth in paragraph (3) for the first calendar year of an award year and the preceding calendar year;

(C) a married student must satisfy the criteria set forth in paragraph (3) for the first calendar year of the award year and the preceding year; and

(D) an unmarried student with minor dependents (excluding a minor spouse) must satisfy the criteria set forth in paragraph (3) for the first calendar year of the award year and the preceding year.

(5) Any student will qualify to be an independent student if, before the end of the award year—

(A) the student is an orphan;

(B) the student is declared a ward of a court; or

(C) the student is a veteran.

(g) Additional Terms.—For the purpose of this title, the term—

(1) "available income" is the difference between the parent's income and allowances against income;

(2) "Adjusted Available Income" is the sum of available income and a supplement from assets;

(3) "Available Taxable Income" means the total estimated annual taxable income of the student (and the spouse of the student if applicable) minus the estimated United States income taxes and the standard allowance for State income taxes; and

(4) "family contribution" is the amount which the student and the family of the student may be reasonably expected to contribute toward the student's postsecondary education for the academic year for which the determination is made, as determined in accordance with the family contribution schedule required by this section.

(h) Special Rule for Foreclosure, Forfeiture, Liquidation, or Bankruptcy.—(1) In the computation of family contributions for the programs under this title for any academic year beginning on or after July 1, 1986, the proceeds of a sale of farm or business assets of the family shall be excluded from family income if scuh sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

(2) Special rule for dislocated workers.—(A) For the purpose of this section, the income of a dislocated worker shall be the income for the year for which the determination is made.

(B) For the purpose of this subsection, a dislocated worker is a worker identified pursuant to title III of the Job Training Partnership Act.

(i) Financial Aid Administrator Discretion Permitted.—Nothing in this part shall be interpreted as limiting the ability of the student financial aid administrator to make necessary adjustments to the cost of attendance and expected family contribution computations to allow for treatment of individual students with special circumstances. For the purpose of the preceding sentence, each student financial aid administrator must maintain adequate documentation of adjustments. In addition, nothing in this part shall be interpreted as limiting the ability of the student financial aid administrator to use supplementary information about the financial status of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts C and E of this title.

(j)(1) The Secretary may use a simplified needs analysis based upon the elements set forth in paragraph (2) for the calculation of the expected family contribution for families which have adjusted gross incomes which are equal to or less than $15,000 per year and

which are eligible to file a form 1040A pursuant to the Internal Revenue Code of 1954.

(2) The five elements to be used for the simplified needs analysis are—

(A) adjusted gross income,

(B) Federal and State taxes paid,

(C) untaxed income and benefits,

(D) the number of family members, and

(E) the number of family members in postsecondary education.

SUBMISSION OF EXPECTED FAMILY CONTRIBUTION SCHEDULES

SEC. 482A. (a) SUBMISSION; JOINT RESOLUTION.—Each schedule of expected family contribution required under section 482 shall be submitted to the President of the Senate and to the Speaker of the House of Representatives not later than March 1 of the year preceding the year for which the schedule is applicable. Before each such schedule shall become effective, both the Senate and the House of Representatives must adopt a joint resolution approving or modifying, in whole or in part, the proposed schedule.

(b) DISAPPROVAL.—If, not later than September 1, any such schedule has not been approved by both the Senate and the House of Representatives pursuant to subsection (a) of this section, and has been signed by the President, the Secretary shall, not later than September 15 in any year in which the schedule was submitted—

(1) publish the family contribution schedule for the previous academic year for Pell Grants under subpart 1 of part A modified to reflect the most recent and relevant data; and

(2) publish the family contribution schedules for the previous academic year for the programs under subpart 2 of part A, part B for loans for which an interest subsidy is paid pursuant to section 428, part C, and part E modified to reflect the most recent and relevant data.

MASTER CALENDAR

SEC. 482B. (a) SECRETARY REQUIRED TO COMPLY WITH SCHEDULE.—To assure adequate notification and timely delivery of student aid funds under this title, the Secretary shall adhere to the following calendar dates in the year preceding the award year:

(1) Development and distribution of Federal and multiple data entry forms—

(A) by February 1: first meeting of the Education Department's technical committee on forms design;

(B) by March 1: Proposed family contribution schedule published in the Federal Register;

(C) by June 1: final family contribution schedule;

(D) by August 15: application for Federal student assistance and multiple data entry data elements and instructions approved;

(E) by August 30: final approved forms delivered to servicers and printers;

(F) by October 1: Federal and multiple data entry forms and instructions printed; and

(G) by November 1: Federal and multiple data entry forms, instructions, and training materials distributed.

(2) Allocations of campus-based and Pell Grant funds—

(A) by August 1: distribution of institutional application for campus-based funds (FISAP) to institutions;

(B) by October 1: final date for submission of FISAP by institutions to Department of Education;

(C) by November 15: edited FISAP and computer printout received by institutions;

(D) by December 1: appeals procedures received by institutions;

(E) by December 15: edits returned by institutions Department of Education;

(F) by February 1: tentative award levels received by institutions and final Pell Grant payment schedule;

(G) by February 15: closing date for receipt of institutional appeals by the Department of Education;

(H) by March 1: appeals process completed;

(I) by April 1: final award notifications sent to institutions; and

(J) by June 1: Pell Grant authorization levels sent to institutions.

(b) Timing for Reallocations.—With respect to any funds reallocated under section 413D or section 442, the Secretary shall reallocate such funds at any time during the course of the year that will best meet the purposes of the programs under subpart 2 of part A and part C, respectively. Such reallocation shall occur at least once each year, not later than September 30 of that year.

(c) Delay of Effective Date of Late Publications.—Any additional regulatory changes initiated by the Secretary affecting the general administration of the programs pursuant to this title that have not been published in final form by December prior to the start of the award year shall not become effective until the beginning of the second award year after the December 1 date.

(d) Notice to Congress.—The Secretary shall notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives when the items specified in the calendar have been completed and provide all relevant forms, rules and instructions with such notice. When a deadline included in the calendar is not met, the Secretary, within 7 days, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a written report, including proper documentation, as to why the deadline was not adhered to and a detailed plan for ensuring that subsequent dates are met. Nothing in this section shall be interpreted to penalize institutions or deny them the specified times allotted to enable them to return information to the Secretary based on the failure of the Secretary to adhere to the dates specified in this section.

FORMS AND REGULATIONS

Sec. 483. (a) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall prescribe a common Federal financial aid application form to be used to determine the need and eligibility of a student for financial assistance under this title (other than under subpart 3 of part A and under part B). No student or parent of a student shall be charged a fee for processing the data elements of the form prescribed by the Secretary. The Secretary shall, to the extent practicable, enter into not less than three contracts with States, institutions of higher education, or private organizations for the purpose of processing the application required under this subsection and issuing eligibility reports. The Secretary may also contract for additional services to assure coordination of financial aid from both Federal and non-Federal sources, and to provide information, training, and similar services to institutions, aid officers, counselors, lenders, parents and students. Nothing in this section shall prohibit States, institutions, or private organizations from simultaneously collecting data elements, in addition to the data elements prescribed by the Secretary, as may be necessary to determine the eligibility of a student for financial aid funds not covered by this title (or covered under subpart 3 of part A or under part B of this title).

(b) Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this title shall be provided to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives at least thirty days prior to their effective date.

(c) To help insure access to postsecondary education by providing early notice to students of their potential eligibility for financial aid, the Secretary is authorized to enter into contracts with States, institutions of higher education, and private organizations for the purpose of—

(1) developing a common pre-eligibility Federal financial aid form,

(2) distributing and processing such form on a year-round basis free of charge to students, and

(3) issuing on the basis of information reported by the student on such form a pre-eligibility index designed to estimate the amount of Federal (and, if feasible, non-Federal) funds for which the student might qualify in later completing and submitting the application form called for under this section.

The Secretary shall widely disseminate the pre-eligibility form through post offices and other appropriate Federal installations, schools, postsecondary institutions, libraries, and community-based agencies, including projects assisted under subpart 4 of part A of this title.

STUDENT ELIGIBILITY

SEC. 484. (a) In order to receive any grant, loan, or work assistance under this title, a student must—

(1) be enrolled or accepted for enrollment at an institution of higher education that is an eligible institution in accordance with the provisions of section 487;

(2) except as otherwise specifically provided, be carrying or planning to carry at least one-half the normal full-time work-

load for the course of study the student is pursuing, as determined by the institution;

(3) if the student is presently enrolled at an institution, be maintaining satisfactory progress *towards a degree or certificate* in the course of study the student is pursuing [according to the standards and practices of the institution at which the student is in attendance;] *in accordance with the provisions of subsection (c) of this section;*

(4) not owe a refund on grants previously received at [such] *any* institution under this title, or be in default on any loan from a student loan fund at such institution provided for in part E, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at [such] *any* institution; and

(5) file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a statement of educational purpose [(which need not be notarized)] *(which need not be notarized but which shall include such student's social security number or, if the student does not have a social security number, such student's student identification number)* stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution.

(b)(1) A student may be eligible for student assistance described in paragraph (2) if—

(A) the student carries less than one-half the normal full-time workload for the course of study the student is pursuing, as determined by the institution of higher education, and

(B) the institution of higher education has met the need for assistance under each such program described in paragraph (2) for students enrolled at the instutition described in clause (2) of subsection (a).

(2) The student assistance to which paragraph (1) of this subsection applies are—

(A) supplemental education opportunity grants under subpart 2 of part A of this title;

(B) work-study programs under part C of this title; and

(C) direct student loans under part E of this title.

[(b)] *(c)* Any permanent resident of the Trust Territory of the Pacific Islands or of the Northern Mariana Islands shall be eligible for assistance under this title to the same extent that citizens of the United States are eligible for such assistance.

(d)(1) For the purpose of clause (3) of subsection (a) of this section, a student is maintaining satisfactory progress if—

(A) the institution at which the student is in attendance, reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution, and

(B) the student has a cumulative C average, or its equivalent or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

(2) Whenever a student fails to meet the eligibility requirements of clause (3) of subsection (a) as a result of the application of this sub-

section and subsequent to that failure the student has a cumulative C average for any grading period, the student may, subject to this subsection, again be eligible under such clause (3) for a grant, loan, or work assistance under this title.

(3) Any institution of higher education at which the student is in attendance may, for the purpose of clause (3), waive the provisions of paragraph (1) or paragraph (2) of this subsection for undue hardship based on—

(A) the death of a relative of the student,

(B) the personal injury or illness of the student, or

(C) special circumstances as determined by the institution.

STATUTE OF LIMITATIONS

SEC. 484A. (a) Notwithstanding any provision of State law that would set an earlier deadline for filing suit—

(1) an institution which receives funds under this title may file suit for collection of a refund due from a student on a grant made or work assistance awarded under this title during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date the refund became due;

(2) a guaranty agency which has an agreement with the Secretary under section 428(c) may file suit for collection of the amount due from a borrower on a loan made under part B of this title during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower; and

(3) an institution which has an agreement with the Secretary pursuant to section 463(a) may file suit for collection of the amount due from a borrower on a loan made under part E of this title during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date of the default of the borrower with respect to that amount; and

(4) subject to the provisions of section 2416 of title 28 of the United States Code, the Attorney General may file suit—

(A) for payment of a refund due from a student on a grant made under this title until six years following the date on which the refund first became due;

(B) for collection of the amount due the Secretary from a borrower pursuant to section 428(c)(2)(D) of this title until six years following the date on which the loan is assigned to the Secretary under part B of this title; and

(C) for collection of the amount due from a borrower on a loan made under this part until six years following the date on which the loan is assigned, transferred, or referred to the Secretary under part E of this title.

(b) Notwithstanding any provision of State law to the contrary—

(1) a borrower who has defaulted on a loan made under this title shall be required to pay, in addition to other charges specified in this title, reasonable collection costs; and

(2) in collecting any obligation arising from a loan made under part B of this title, a guarantty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy.

INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

SEC. 485. (a)(1) Each eligible institution participating in any program under this title shall carry out information dissemination activities for prospective and enrolled students regarding the institution and financial assistance under this title. The information required by this section shall be produced and be made readily available, through appropriate publications and mailings, to all current students, and to any prospective student upon request. The information required by this section shall accurately describe—

(A) the student financial assistance programs available to students who enroll at such institution;

(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

(D) the rights and responsibilities of students receiving financial assistance under this title;

(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

(F) a statement of the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in clause (E) of this paragraph;

(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, and (iii) the faculty and other instructional personnel;

(H) each person designated under subsection (b) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

(I) special facilities and services available to handicapped students;

(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs, and the procedures under which any current or prospective student may obtain or review upon request a copy of the documents describing the institution's accreditation, approval, or licensing; and

(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 484(a)(3).

(2) For purposes of this section, the term "prospective student" means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

(b) Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a). The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this title at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

(c) The Secretary shall make available to eligible institutions descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, and (2) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs.

COMBINED PAYMENT PLAN

SEC. 485A. (a) Upon the request of the borrower, each lender, with respect to all loans eligible for consolidation under section 428C of this Act, and loans guaranteed under subpart I of part C of title VII of the Public Health Services Act which are held by the lender, shall provide a combined payment plan under which the lender will submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment.

(b) Upon the request of the borrower, each lender, with respect to all loans of a borrower made, insured, or guaranteed under part B of this title which are held by the lender, shall provide a combined payment plan under which the lender will submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment.

TRAINING IN FINANCIAL AID AND STUDENT SUPPORT SERVICES

SEC. 486. (a) The Secretary is authorized to enter into contracts with appropriate public agencies or nonprofit private organizations or institutions of higher education to provide training for financial aid administrators, student peer counselors, student staff or volunteers, and other part-time staff and volunteers who provide financial aid, admissions and academic counseling and outreach, and student support programs in postsecondary education in postsecondary institutions, communities or statewide programs.

(b) Financial assistance under this section may be used for—

(1) development of materials and inservice training and career awareness programs;

(2) operation of short-term training institutes designed to improve the skills and career awareness of participants in such institutes; and

(3) special programs to assist in training of students and part-time staff or volunteers at institutions eligible for assistance under title III of this Act.

(c) There are authorized to be appropriated $1,000,000 to carry out the provisions of this section for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, [1985.] *1986.*

PROGRAM PARTICIPATION AGREEMENTS

SEC. 487. (a) In order to be an eligible institution for the purposes of any program authorized under this title, an institution must be an institution of higher education or an eligible institution (as that term is defined for purposes of that program) and shall, except with respect to a program under subpart 3 of part A, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

[(1) The institution will use funds received by it for any program under this title solely for the purposes specified in, and in accordance with, the provisions of that program.]

(1) The institution will use funds received by it for any program under this title and any interest or other earnings thereon solely for the purposes specified in, and in accordance with the provision of, that program.

(2) In the case of an institution participating in any program authorized under subpart 2 of part A or part C of this title for any fiscal year, the institution will continue to spend in its own scholarship and student aid program, from sources other than funds received under such parts, not less than the average expenditures per year made for that purpose during the most recent period of three fiscal years preceding the effective date of the program participation agreement, except that, under special and unusual circumstances prescribed by regulation, the Secretary is authorized to waive the requirements of this paragraph.

(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this title.

(4) The institution will comply with the provisions of subsection (b) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part E, to holders of loans made to the institution's students under such parts at such times and containing such

information as the Secretary may reasonably require to carry out the purposes of this title.

(6) The institution will comply with the requirements of section 485.

(7) In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institution, the institution will publish in the catalog of the institution actual employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements.

(8) In the case of an institution participating in a program under part B, the institution will inform all eligible borrowers enrolled in the institution about the availability and eligibility of such borrowers for State grant assistance.

(b)(1) Notwithstanding any other provisions of this title, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

[(A) a fiscal audit of an eligible institution with regard to any funds obtained by it under this title or obtained from a student who has a loan insured or guaranteed by the Secretary under this title;**]**

(A)(i) except as provided in the last sentence of this paragraph, a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this title or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this title, at least once every two years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organization, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary;

(B) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title;

(C) the establishment, by each eligible institution under part B responsible for furnishing to the lender the statement required by section 428(a)(2)(A)(i), of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than sixty days after such termination or failure to re-enroll; and

(D) the limitation, suspension, or termination of the eligibility for any program under this title of any otherwise eligible institution, or the imposition of a civil penalty under paragraph (2)(B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing on the record, that such institution has violated or failed to carry out any provision of this title or any regulation prescribed under this title, except that no period of suspension under this section shall exceed sixty days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time.

In prescribing regulations under this paragraph, the Secretary, with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, shall deem such audit to satisfy the requirements of clause (A)(i) for the period covered by such audit.

(2)(A) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this title of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secretary finds that such practices have been corrected.

(B)(i) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an eligible institution—

(I) has violated or failed to carry out any provision of this title or any regulation prescribed under this title; or

(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,

the Secretary may impose a civil penalty upon such institution of not to exceed $25,000 for each violation or misrepresentation.

(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

(3) The Secretary shall publish a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

(c) For the purpose of this section the term "eligible institution" means any such institution described in section 435(a) of this Act.

TRANSFER OF ALLOTMENTS

SEC. 488. Up to 10 per centum of the allotment of an eligible institution for a fiscal year under section 413D or 446 of this Act, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

ADMINISTRATIVE EXPENSES

SEC. 489. (a) From the sums appropriated for any fiscal year for purposes of the program authorized under subpart 1 of part A, the Secretary shall reserve such sums as may be necessary to pay to each institution with which he has an agreement under section 487, an amount equal to $5 for each student at that institution who receives assistance under subpart 1 of part A. In addition, an institution which has entered into an agreement with the Secretary under subpart 2 of part A or part C (other than section 448), of this title or under part E of this title shall be entitled for each fiscal year for which it receives an allotment by payment under any such part to a payment for the purposes set forth in subsection (b). The payment for a fiscal year shall be payable from each such allotment by payment in accordance with regulations of the Secretary and shall be equal to 5 per centum of the institution's first $2,750,000 of expenditures plus 4 per centum of the institution's expenditures greater than $2,750,000 and less than $5,500,000, plus 3 per centum of the institution's expenditures in excess of $5,500,000 during the fiscal year from the sum of its grants to students under subpart 2 of part A, its expenditures during such fiscal year under part C for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part E, excluding the principal amount of any such loans which the institution has agreed to assign under section 463(a)(6)(B). The payment for a fiscal year for the purpose of subsection (b) with respect to section 448 shall be payable from each allotment under part C in accordance with regulations of the Secretary, and shall be 10 per centum of the institution's expenditures during such fiscal year under such section.

(b) The sums paid to institutions under this part are for the sole purpose of offsetting the administrative costs of the programs described in subsection (a).

CRIMINAL PENALTIES

SEC. 490. (a) Any person who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds, assets, or property provided or insured under this title shall be fined not more than $10,000 or imprisoned for not more than five years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud, false statement, or forgery does not exceed $200, the fine shall not be more than $1,000 and imprisonment shall not exceed one year, or both.

(b) Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this title shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

(c) Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B as an inducement to make, or to acquire by assignment, a loan insured under that part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

(d) Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this title with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

[NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

[SEC. 491. (a) There is established, as an independent agency within the executive branch, a National Commission on Student Financial Assistance (referred to in this section as the "Commission").

[(b)(1) The Commission shall be composed of twelve members. Four of the members shall be appointed by the President. Four of the members shall be appointed by the Speaker of the House, including two Members of the House, one from each political party. Four of the members shall be appointed by the President pro tempore of the Senate, including two Members of the Senate, one from each political party.

[(2) The Chairman shall be designated by the President from among the members appointed by him. If the President has not appointed four members of the Commission and designated a Chairman within sixty days of the enactment of this Act, the members of the Commission appointed by the Speaker of the House and the President pro tempore of the Senate shall elect a Chairman who shall continue to serve for the duration of the Commission.

[(3) Any vacancy in the Commission shall be filled by appointment of the same person who appointed the person who has left the Commission.

[(c)(1) The Commission shall make a study of the following issues:

[(A) more effective means to reduce default, fraud, abuse, and delinquency in the programs authorized by this title;

[(B) the appropriate balance between loans and other sources of financing postsecondary education from the point of view of the needs and welfare of students and their parents;

[(C) the adequacy of capital to serve the postsecondary educational needs of students or their parents for credit; if adequate credit is available, the likelihood it will continue to remain available; if adequate credit is not available, the likelihood it will become available and the steps that can be taken to provide adequate credit for the postsecondary educational needs of students;

[(D) the impact of various levels of student borrowing, grants, gift aid, and employment on the educational performance, future career choices, and future educational choices of students;

[(E) the impact of various levels of parent borrowing for postsecondary education on parents;

[(F) the appropriate annual and aggregate self-help limits and gift aid for parents, dependent students, and independent students;

[(G) the most appropriate mechanism for the effective and efficient origination, servicing, and collection of student loans and for the effective and efficient delivery of other forms of student assistance;

[(H) the most appropriate source or sources of student loan capital considering both the cost and the reliability of adequate capital availability;

[(I) the appropriate level of public subsidy to students and parents for the cost of capital for student loans;

[(J) the impact of the availability of Federal student financial assistance on the availability of student financial assistance from all other sources;

[(K) the impact of the availability of student assistance, particularly from Federal sources, on the level of postsecondary education costs;

[(L) the most appropriate mechanism to provide students and parents with the flexible repayment options and opportunities for consolidation of student loan indebtedness;

[(M) means to remove barriers to capital availability caused by patterns of lender discrimination;

[(N) the cost to the Federal Government of the arbitrage derived from revenue bonds issued by agencies for the purpose of making or purchasing loans under part B of this title and the appropriate role of such bonds as a mechanism for raising student loan capital; and

[(O) the effectiveness in serving the purposes of this title of the existing formulas for allotment among the States in subpart 2 of part A and in parts C and E of this title.

[(2) The Commission shall make a study of the insurance premium charged by an insurer pursuant to section 428(b)(1)(H) in order to determine if the rate of the insurance premium exceeds the rate necessary to protect the reserves of the insurer and to determine if a statutory limit should be enacted for the rate of such premium.

[(3)(A) The Commission shall make a study of an improved method or methods for determination of the quarterly rate of special allowances paid under part B of this title which the Commission determines will carry out the objectives set forth in section 438(a).

[(B) The Commission shall make every effort to reach a unanimous decision with respect to the method for determination of the quarterly rate of the special allowances required to be studied by this paragraph.

[(C) In developing the method for the determination of the quarterly rate of the special allowances under this paragraph, the Commission shall consider—

[(i) the experiences of students and eligible lenders under the method in operation during the period of the study,

[(ii) the administrative costs of various types of eligible lenders under part B of title IV,

[(iii) relevant and widely available financial indicators which accurately reflect the costs of capital invested in programs under such part, or substitute financial indicators which equitably represent the cost of such capital,

[(iv) an administrative mechanism necessary to produce a prompt and rapidly disseminated determination of the quarterly rate of the special allowances, in order to avoid delays in the determination and dissemination of that rate and in the actual payment of the special allowances to eligible lenders, and

[(v) such other factors as the Commission considers necessary to carry out the purposes of section 438(a).

[(4) The Commission shall conduct a study to determine if institutions of higher education which meet the requirements of section 1201(a) (other than the provisions of subclauses (A) and (B) of clause (5) of such section), but fail to meet such requirements because the institution is not located in a State, should be included in the definition of institution of higher education under section 481.

[(5) The Commission shall conduct a study to determine if student eligibility for financial assistance under section 484 on the basis of maintaining satisfactory academic progress should include provisions which would require that a student complete successfully a specified portion of the workload undertaken during the academic period for which assistance was received by the student.

[(6) The Commission shall, in consultation with the National Center for Education Statistics, conduct longitudinal studies of high school students in order to determine the effect of federally authorized student assistance programs upon postsecondary education access and choices of high school students.

[(7)(A) The Commission shall, in consultation with appropriate higher education associations and representatives from institutions of higher education, collect data necessary for the study of graduate education throughout the United States required by this paragraph. Such study shall—

[(i) analyze trends and shortcomings in the sources of support available to students for the financing of graduate education, and compare the nature and level of support available in the various academic disciplines, including sources of support from student assistance and research programs sponsored by—

[(I) the Federal Government,

[(II) State and local governments,

[(III) foundations, corporations, and other private entities, and

[(IV) institutions of higher education, and

in addition, consider the resources of the students and the students' families;

[(ii) examine the extent to which students may be dissuaded from pursuing graduate education on financial grounds, to the consequent detriment of—

[(I) the major fields of knowledge which need to attract the most able and talented students of each generation if they are to remain strong and vigorous; and

[(II) the Nation as a whole, if some of its most promising students are precluded because of financial circumstances from developing their capacities and abilities to the fullest possible extent;

[(iii) investigate existing and projected levels of graduate student indebtedness, and consider the implications (for the students involved and for the health of graduate education generally) or existing and projected expectations for borrowing to meet the costs of graduate education;

[(iv) assess the desirability of modifying existing Federal fellowship and student assistance programs or establishing a new Federal graduate student assistance program in which the selection of students and the amounts of their awards are based on merit or financial need or both, particularly with regard to the special needs of students in the humanities and social sciences or other disciplines; and

[(v) examine and assess the financial and educational needs of individuals from disadvantaged backgrounds in order to enhance their participation in graduate and professional education and their potential for employment in occupational areas where these individuals are underrepresented.

[(B) In conducting the study described in this paragraph, the Commission shall consult with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of higher education institutions and associations, learned societies, and professional organizations.

[(8)(A) The Commission shall conduct a study of a proposal to amend the guaranteed student loan program authorized by part B of title IV by recapturing interest subsidies from borrowers who do not obtain loans for undergraduate study under such part by reason of need or who borrow under such part for graduate study to the extent such loans are made for graduate study. In conducting such study, the Commission shall analyze the long term effect on the Budget of the United States of recapturing the interest subsidy in accordance with such proposal outlined in this paragraph and the impact of such proposal on the availability of funds for postsecondary education for students.

[(B) In conducting the study under this paragraph, the Commission shall also consider other alternative proposals designed to reduce the cost of the guaranteed student loan program under part B of title IV in fiscal years subsequent to fiscal year 1982 and the impact of such proposals on the availability of funds for postsecondary education for students.

[(d)(1) The Commission shall prepare and submit reports and recommendations to the President and to the Congress on the studies required to be conducted under subsection (c) of this section. The reports for the studies required by paragraphs (2), (3), (5), and (8) of such subsection shall be submitted as soon as practicable but in no event later than one year after the date of the first meeting of the Commission. The reports for the studies required by paragraphs (1), (4), (6), and (7) shall be submitted as soon as practicable but in no event later than July 1, 1983.

[(2) Any recommendations and reports submitted under this paragraph which contemplate changes in Federal legislation shall include draft legislation to accomplish the recommendations.

[(3) The Commission shall cease to exist on November 1, 1983.

[(e)(1) Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

[(2) Members of the Commission who are not officers or full-time employees of the United States may each receive $150 per diem when engaged in the actual performance of duties vested in the Commission. In addition, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

[(f) Such personnel as the Commission deems necessary may be appointed by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

[(g)(1) The Commission or, on the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of the Act, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

[(2) In carrying out its duties under the Act, the Commission shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

[(3) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this section, and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

[(4) For the purpose of securing the necessary data and information the Commission may enter into contracts with universities, research institutions, foundations, and other competent public or private agencies. For such purpose, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

[(5) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this section.

[(6) The Commission is authorized to utilize, with their consent, the services, personnel, information and facilities of other Federal, State, local and private agencies with or without reimbursement.

[(7) The Commission shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or his representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.

[(8) Six members of the Commission shall constitute a quorum, but a lesser number of two or more may conduct hearings.

[(h) There is authorized to be appropriated an amount not to exceed a total of $10,000,000 for fiscal years beginning on or after October 1, 1980, to carry out the provisions of this section, which shall remain available until expended or until the termination of the Commission, whichever occurs first.]

ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE

SEC. 491. (a) ESTABLISHMENT AND PURPOSE.—(1) There is established in the Department an independent Advisory Committee on Student Financial Assistance (hereafter in this section referred to as the "Advisory Committee") which shall provide advice and counsel to the Congress and to the Secretary on student financial aid matters.

(2) The purpose of the Advisory Committee is—

(A) to provide extensive knowledge and understanding of the Federal, State, and institutional programs of postsecondary student assistance;

(B) to provide technical expertise with regard to systems of needs analysis and application forms; and

(C) to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students.

(b) INDEPENDENCE OF ADVISORY COMMITTEE.—In the exercise of its functions, powers, and duties, and Advisory Committee shall be independent of the Secretary and the other offices and officers of the Department.

(c) MEMBERSHIP.—(1) The Advisory Committee shall have 11 members of which—

(A) 3 members shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader,

(B) 3 members shall be appointed by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader, and

(C) 5 members shall be appointed by the Secretary including, but not limited to representatives of States, institutions of higher education, secondary schools, credit institutions, students, and parents.

(2) Not less than 7 members of the Advisory Committee shall be individuals who have been appointed on the basis of technical qualifications, professional standing and demonstrated knowledge in the fields of higher education and student aid administration, need analysis, financing postsecondary education, student aid deliv-

ery, and the operations and financing of student loan guarantee agencies.

(d) Functions of the Committee.—The Advisory Committee shall—

(1) develop, review, and comment upon the system of needs analysis established under section 482 of this title;

(2) monitor, apprise, and evaluate the effectiveness of student aid delivery and recommend improvements;

(3) recommend data collection needs and student information requirements which would improve access and choice for eligible students under this title and assist the Department of Education in improving the delivery of student aid and in assessing the impact of legislative and administrative policy proposals;

(4) review and comment upon, prior to promulgation, all regulations affecting programs under this title, including proposed regulations;

(5) recommend to the Congress and to the Secretary such studies, surveys, and analyses of student financial assistance programs, policies, and practices, including the special needs of low-income, disadvantaged, and nontraditional students, and the means by which the needs may be met;

(6) review and comment upon standards by which financial need is measured in determining eligibility for Federal student assistance programs; and

(7) appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of current student aid information programs.

(e) Operations of the Committee.—(1) Each member of the Advisory Committee shall be appointed for a term of 3 years, except that, of the members first appointed—

(A) 4 shall be appointed for a term of 1 year;

(B) 4 shall be appointed for a term of 2 years; and

(C) 3 shall be appointed for a term of 3 years, as designated at the time of appointment by the Secretary.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of such term. A member of the Advisory Committee shall, upon request, continue to serve after the expiration of a term until a successor has been appointed. A member of the Advisory Committee may be reappointed to successive terms on the Advisory Committee.

(3) The Advisory Committee shall elect a Chairman and a Vice Chairman from among its members.

(4) Six members of the Advisory Committee shall constitute a quorum.

(5) The Advisory Committee shall meet at the call of the Chairman or a majority of its members.

(f) Submission to Department for Comment.—The Advisory Committee shall submit any of its proposed studies or recommendations to the Department of Education for comment for a period not to exceed 30 days in each instance.

(g) Compensation and Expenses.—(1) Members of the Advisory Committee who are officers or full-time employees of the United States shall serve without compensation in addition to that received

for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) Members of the Advisory Committee who are not officers or full-time employees of the United States may each receive reimbursement for travel expenses incident to attending Advisory Committee meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(h) PERSONNEL AND RESOURCES.—(1) The Advisory Committee may appoint such personnel as may be necessary by the Chairman without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

(2) In carrying out its duties under the Act, the Advisory Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

(3) The Advisory Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Advisory Committee, upon request made by the Chairman.

(4) The Advisory Committee is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(5) The head of each Federal agency shall, to the extent not prohibited by law, cooperate with the Advisory Committee in carrying out this section.

(6) The Advisory Committee is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

(i) AVAILABILITY OF FUNDS.—An amount, not to exceed $1,000,000 in any fiscal year, shall be available from the amount appropriated for each such fiscal year from salaries and expenses of the Department for the costs of carrying out the provisions of this section.

(b) TERMINATION.—(1) The Advisory Committee shall cease to exist 1 year after the first meeting of the Advisory Committee.

(2) Effective 1 year after the first meeting of the Advisory Committee, section 491 of the Act is repealed.

TITLE V—TEACHER CORPS AND TEACHER TRAINING PROGRAMS

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[PART C—TRAINING FOR ELEMENTARY AND SECONDARY SCHOOL TEACHERS TO TEACH HANDICAPPED CHILDREN IN AREAS WITH A SHORTAGE

[GRANTS AUTHORIZED

[SEC. 541. (a) The Secretary is authorized to make grants, in accordance with the provisions of this part, to State educational agencies to enable such agencies to support a fellowship program of stipends and allowances to institutions of higher education for teachers to be trained to provide special education for handicapped children.

[(b) The Secretary shall establish criteria for—

[(1) determining if there is a shortage of teachers in the area of special education for handicapped children in the State;

[(2) assuring that the institutions of higher education, at which recipients of fellowships awarded under this part are pursuing courses of study, offer a program designed to prepare such recipients in the area of special education for handicapped children; and

[(3) assuring that individuals trained with assistance under this part receive specialized training in the subject areas in which there is the greatest need for such teachers.

[(c) The Secretary shall assure an equitable distribution among the States of grants made under this part, consistent with criteria established under subsection (b).

[APPLICATION

[SEC. 542. (a) No grant may be made under this part unless an application is made by a State educational agency at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

[(1) describe a fellowship program under which the State will make stipends to recipients and make allowances to institutions of higher education, in accordance with the provisions of this part, for teachers and other specialists to be trained in special education for handicapped children;

[(2) provide assurances that each recipient of a fellowship under this part will enter into an agreement with the State under which the recipient will—

[(A) within the five-year period after the completion of the training for which the fellowship was awarded, teach for a period of not less than two years in an elementary or secondary school of a local educational agency of that State, a public elementary or secondary school of that State, or a public educational program approved by the local educational agency or the State, which has, or has provided assurances that it will have, a special education program for handicapped children, or

[(B) repay all of the stipend awarded to the recipient plus the allowances paid to any institution of higher education based upon that fellowship in the event that the conditions of clause (A) are not complied with, except when such conditions are not complied with for reasons beyond a recipient's control;

[(3) provide procedures under which recipients of fellowships who teach, for reasons beyond their control, less than the two-year period required under clause (2) of this subsection will have the repayment requirement reduced according to a schedule established by the State agency;

[(4) provide procedures under which stipends and institution of higher education allowances will be paid by the State agency in accordance with the provisions of this part; and

[(5) provide that the State agency will make continuing efforts to encourage recipients of fellowships under this part to continue to provide special education for handicapped children in areas where there is a shortage of such teachers.

[(b) The Secretary shall approve any application which meets the requirements of subsection (a) of this section. Prior to approving any applications under this section, the Secretary shall prepare regulations setting forth detailed requirements with respect to clauses (2) and (3) of subsection (a).

[STIPENDS AND INSTITUTION OF HIGHER EDUCATION ALLOWANCES

[SEC. 543. (a)(1) Each State educational agency receiving a grant under this part shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

[(2) No stipend may be paid to any single recipient in any one year in excess of $9,000.

[(b) Each State educational agency receiving a grant under this part shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such individual is pursuing a course of study such amounts as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

[FELLOWSHIP CONDITIONS

[SEC. 544. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive the payments provided in this part only during such periods as the State educational agency finds that the individual is maintaining satisfactory progress and devoting at least one-half of the full-time academic workload to study in the field in which such fellowship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Secretary by or pursuant to regulation. The amount of any payment to an individual engaged in such gainful employment shall be appropriately reduced pursuant to regulation.

[(b) The State educational agency is authorized to require reports containing such information in such form and to be filed at such times as it determines necessary from any individual awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education approved by the State educational agency, stating that such individual is making satisfactory progress in, and is devoting at least one-half of the full-time academic workload to, the program for which the fellowship was awarded.

[(c) No fellowship shall be awarded under this part for study at a school or department of divinity.

[DEFINITION

[SEC. 545. As used in this part "special education" has the same meaning as prescribed by section 602(16) of the Education of the Handicapped Act.

[APPROPRIATIONS AUTHORIZED

[SEC. 546. There are authorized to be appropriated $2,000,000 for the fiscal year 1981, $3,000,000 for the fiscal year 1982, and $5,000,000 for the fiscal year 1983 and for each of the fiscal years ending prior to October 1, 1985 to carry out the provisions of this part.

[PART D—COORDINATION OF EDUCATION PROFESSIONAL DEVELOPMENT

[FINDINGS

[SEC. 551. The Congress finds that—

[(1) many Federal programs have been enacted to train and develop education professionals;

[(2) such programs make Federal funds available to States, local education agencies, colleges and universities, and other agencies;

[(3) such programs should be coordinated at the Federal level to avoid unnecessary duplication of effort; and

[(4) such programs should be responsive to State needs and priorities for education professional development.

[POLICY

[SEC. 552. Federal programs which support education professional development should be administered in a coordinated manner, and the activities authorized under such programs should have complementary purposes whenever possible in order to provide the most effective use of Federal funds.

[OFFICE OF EDUCATION PROFESSIONAL DEVELOPMENT

[SEC. 553. (a) There is established in the Department an Office of Education Professional Development, the function of which is to review the operations of and to coordinate program activities among the various Federal education professional development programs within the Department to eliminate unnecessary duplication of effort.

[(b) The Office shall review on a biennial basis each education professional development program administered by the Department and shall—

[(1) identify inconsistencies in program policies and procedures;

[(2) identify overlap in program purpose and operations; and

[(3) coordinate program activities among the various Federal education professional development programs, and wherever necessary, make legislative recommendations to coordinate such programs.

[(c) The Secretary shall report biennially to the Congress on the findings and recommendations of the Office.]

PART E—CARL D. PERKINS SCHOLARSHIP PROGRAM

DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS

SEC. 561. (a) It is the purpose of this part to make available, through grants to the States, scholarships during fiscal years 1986 through 1990 to a maximum of ten thousand individuals who are outstanding high school graduates and who demonstrate an interest in teaching, in order to enable and encourage those individuals to pursue teaching careers in education at the elementary or secondary level. Such scholarships shall be referred to as "Carl D. Perkins Scholarships".

[(b) There are authorized to be appropriated $20,000,000 for fiscal year 1986, $21,000,000 for fiscal year 1987, $22,000,000 for fiscal year 1988, and $23,000,000 for fiscal year 1989, for Carl D. Perkins Scholarships to eligible students under this part.]

(b) There are authorized to be appropriated to carry out the provisions of this part $10,500,000 for fiscal year 1987, $11,050,000 for fiscal year 1988, $11,570,000 for fiscal year 1989, $12,150,000 for fiscal year 1990, and $12,760,000 for fiscal year 1991.

ALLOCATION AMONG STATES

SEC. 562. (a) From the sums appropriated pursuant to section 561 for any fiscal year, the Secretary shall allocate to any State an amount which bears as nearly as possible the same ratio to such sums as the number of persons in that State bears to the number of persons in all States.

(b) For the purpose of this section, the number of persons in a State and in all States shall be determined by the most recently available data from the United States Census Bureau.

GRANT APPLICATIONS

SEC. 563. (a) The Secretary is authorized to make grants to States in accordance with the provisions of this part. In order to receive a grant under this part, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out the purposes set forth in section 561(a) in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

(b) The Secretary shall approve an application only if the application—

(1) describes the selection criteria and procedures to be used by the State in the selection of scholarships under this part which satisfy the provisions of this part;

(2) designates the State agency which administers the program under subpart 3 of part A of title IV, relating to State student incentive grants, or the State agency with which the Secretary has an agreement under section 428(b);

(3) describes the outreach effort the State agency intends to use to publicize the availability of Carl D. Perkins Scholarships to high school students in the State;

(4) provides assurances that each recipient eligible under section 565(b) of this part who receives a Carl D. Perkins Scholarship shall enter into an agreement with the State agency under which the recipient shall—

(A) within the ten-year period after completing the postsecondary education for which the Carl D. Perkins Scholarship was awarded, teach, for a period of not less than two years for each year for which assistance was received, in a public elementary or secondary school in any State, in a public education program in any State, or in a private nonprofit school located and serving students in a district eligible for assistance pursuant to chapter 1 of the Education Consolidation and Improvement Act of 1981, or, on a full-time basis, handicapped children or children with limited English proficiency in a private nonprofit school, except that, in the case of individuals who teach in a school serving large numbers or high concentrations of economically disadvantaged students, or who teach children with limited English proficiency or handicapped children, the requirements of this subparagraph shall be reduced by one-half;

(B) provide the State agency evidence of compliance with section 566 of this part as required by the State agency; and

(C) repay all or part of a Carl D. Perkins Scholarship received under section 564 of this part plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under section 567 of this part, in the event that the conditions of clause (A) are not complied with, except as provided for in section 568 of this part;

(5) provides that the agreement entered into with recipients shall fully disclose the terms and conditions under which assistance under this part is provided and under which repayment may be required. Such disclosure shall include—

(A) a description of the procedures required to be established under paragraph (6); and

(B) a description of the appeals procedures required to be established under paragraph (7) under which a recipient may appeal a determination of noncompliance with any provision under this part;

(6) provides for procedures under which a recipient of assistance received under this part who teaches for less than the period required under paragraph (4)(A) will have the repayment requirements reduced or eliminated consistent with the provisions of sections 567 and 568 of this part;

(7) provides for appeals procedures under which a recipient may appeal any determination of noncompliance with any provision under this part;

(8) provides assurances that the State agency shall make particular efforts to attract students from low-income backgrounds or who express a willingness or desire to teach in schools having less than average academic results or serving large numbers of economically disadvantaged students; and

(9) provides assurances that Carl D. Perkins Scholarships will be awarded without regard to sex, race, handicapping condition, creed, or economic background.

(c) The selection criteria and procedures to be used by the State shall reflect the present and projected teacher needs of the State, including the demand for and supply of elementary teachers in the State, the demand for and supply of secondary teachers in the State, and the demand for teachers with training in specific academic disciplines in the State.

(d) In developing the selection criteria and procedures to be used by the State, the State shall solicit the views of State and local educational agencies, private educational institutions, and other interested parties. Such views—

(1) shall be solicited by means of (A) written comments; and (B) publication of proposed selection criteria and procedures in final form for implementation; and

(2) may be solicited by means of (A) public hearings on the teaching needs of elementary and secondary schools in the State (including the number of new teachers needed, the expected supply of new teachers, and the shortages in the State of teachers with training in specific academic disciplines); or (B) such other methods as the State may determine to be appropriate to gather information on such needs.

AMOUNT AND DURATION OF AND RELATION TO OTHER ASSISTANCE

Sec. 564. (a) Subject to subsection (c), each Carl D. Perkins Scholar shall receive a $5,000 scholarship for each academic year of postsecondary education for study in preparation to become an elementary or secondary teacher. No individual shall receive scholarship assistance for more than four years of postsecondary education, as determined by the State agency.

(b) Notwithstanding the provisions of title IV of this Act, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for student assistance under title IV of this Act.

(c) Carl D. Perkins Scholarship assistance awarded by the statewide panel established pursuant to section 565 to any individual in any given year, when added to assistance received under title IV of this Act, shall not exceed the cost of attendance, as defined under section 482(d), at the institution the individual is attending. If the amount of the Carl D. Perkins Scholarship assistance and assistance received under title IV of this Act, exceeds the cost of attendance, the Carl D. Perkins Scholarship shall be reduced by an amount equal to the amount by which the combined awards exceed the cost of attendance.

(d) No individual shall receive an award under the Carl D. Perkins Scholarship established under this part, in any academic year, which shall exceed the cost of attendance, as defined under section 482(d), at the institution the individual is attending.

SELECTION OF CARL D. PERKINS SCHOLARS

SEC. 565. (a) Carl D. Perkins Scholars shall be selected by a seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing grant agency or panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers, and parents.

(b) Selections of Carl D. Perkins Scholars shall be made from students who have graduated or who are graduating from high school and who rank in the top 10 per centum of their graduating class. The State educational agency shall make applications available to high schools in the State and in other locations convenient to applicants, parents, and others. The statewide panel shall develop criteria and procedures for the selection of Carl D. Perkins Scholars. Such criteria may include the applicant's high school grade point average, involvement in extracurricular activities, financial need, and expression of interest in teaching as expressed in an essay written by the applicant. The panel may also require the applicant to furnish letters of recommendation from teachers and others.

SCHOLARSHIP CONDITIONS

SEC. 566. Recipients of scholarship assistance under this part shall continue to receive such scholarship payments only during such periods that the State agency finds that the recipient is (A) enrolled as a full-time student in an accredited postsecondary institution; (B) pursuing a course of study leading to teacher certification; and (C) maintaining satisfactory progress as determined by the postsecondary institution the recipient is attending.

SCHOLARSHIP REPAYMENT PROVISIONS

SEC. 567. Recipients found by the State agency to be in noncompliance with the agreement entered into under section 563(b)(4) of this part shall be required to repay a pro rata amount of the scholarship awards received, plus interest and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this part.

EXCEPTIONS TO REPAYMENT PROVISIONS

SEC. 568. (a) A recipient shall not be considered in violation of the agreement entered into pursuant to section 563(b)(4)(C) if the recipient (1) returns to a full-time course of study related to the field of teaching at an eligible institution; (2) is serving, not in excess of three years, as a member of the armed services of the United States; (3) is temporarily totally disabled for a period of time not to exceed three years as established by sworn affidavit of a qualified physician; (4) is unable to secure employment for a period not to exceed twelve months by reason of the care required by a spouse who is disabled; (5) is seeking and unable to find full-time employment for a single period not to exceed twelve months; (6) is seeking and unable to find full-time employment as a teacher in a public elementary or secondary school or a public education program; or (7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this part.

(b) A recipient shall be excused from repayment of any scholarship assistance received under this part if the recipient becomes permanently totally disabled as established by sworn affidavit of a qualified physician.

FEDERAL ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW

SEC. 569. (a) The Secretary shall not finally disapprove any application for a State program submitted under section 563, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

(b) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this part, finds—

(1) that the State program has been so changed that it no longer complies with the provisions of this part, or

(2) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this part until the Secretary is satisfied that there is no longer any such failure to comply.

(c)(1) If any State is dissatisfied with the Secretary's final action under subsection (b) (1) or (2), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Secretary shall forthwith certify and file in the court the transcript of the proceedings and the record on which the action was based.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify any previous action, and shall certify to the court the transcript and record of further proceedings.

Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

PART F—NATIONAL TALENTED TEACHER FELLOWSHIP PROGRAM

DECLARATION OF PURPOSE

SEC. 571. (a) It is the purpose of this part to establish a national fellowship program for outstanding teachers, *to honor Christa McAuliffe.*

(b) Individuals awarded fellowships under this part shall be known as the "Christa McAuliffe Fellows".

[AUTHORIZATION OF APPROPRIATIONS; ALLOCATION AMONG STATES

[SEC. 572. There are authorized to be appropriated $1,000,000 for fiscal year 1986, $2,000,000 for fiscal year 1987, $3,000,000 for fiscal year 1988, and $4,000,000 for fiscal year 1989, for fellowships to outstanding teachers under this part. Not more than 2½ per centum of these funds shall be used for purposes of administering this part.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 572. There are authorized to be appropriated to carry out the provisions of this part $5,250,000 for fiscal year 1987, $5,513,000 for fiscal year 1988, $5,788,000 for fiscal year 1989, $6,080,000 for fiscal year 1990, and $6,380,000 for fiscal year 1991.

TALENTED TEACHER FELLOWSHIPS

SEC. 573. (a)(1) Except as provided under paragraph (3), sums available for the purpose of this part shall be used to award one national teacher fellowship to a public or private school teacher teaching in each congressional district of each State, and in the District of Columbia, and the Commonwealth of Puerto Rico; and one such fellowship in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Fellowship awards may not exceed the average national salary of public school teachers in the most recent year for which satisfactory data are available, as determined by the Secretary. Talented teacher fellows may not receive an award for two consecutive years. Subject to the repayment provisions of section 576, talented teacher fellows shall be required to return to a teaching position in their current school district or private school system for at least two years following the fellowship award.

(3) If the appropriation under section 572 is not sufficient to provide the number of fellowships required by paragraph (1) at the level required under paragraph (2), the Secretary shall determine and publish an alternative distribution of fellowships which will

permit fellowship awards at that level and which is geographically equitable. The Secretary shall send a notice of such determination to each of the statewide panels established under section 574.

(b) Talented teacher fellows may use such awards for such projects for improving public education as the Secretary may approve, including (1) sabbaticals for study or research directly associated with the objectives of this part, or academic improvement; (2) consultation with or assistance to other school districts or private school systems; (3) development of special innovative programs; or (4) model teacher programs and staff development.

SELECTION OF TALENTED TEACHER FELLOWSHIPS

SEC. 574. Recipients of talented teacher fellowship in each State shall be selected (in accordance with section 575) by a seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers, parents, and institutions of higher education.

EVALUATION OF APPLICATIONS

SEC. 575. (a) An applicant for talented teacher fellowship assistance shall submit proposals for projects under section 573(b), and shall indicate the extent to which the applicant wishes to continue current teaching duties. The applicant shall submit such proposals to the local education agency for comment prior to submission to the statewide panel (appointed under section 574) for the State within which the project is to be conducted. In evaluating proposals, such statewide panel shall consult with the local education agency, requesting two recommendations from teaching peers; a recommendation from the principal; and a recommendation of the superintendent on the quality of the proposal and its benefit to the local education agency; and any other criteria for awarding fellowships as is considered appropriate by such statewide panel. Selection of fellows shall be made in accordance with regulations prescribed by the Secretary of Education.

(b) Announcement of awards shall be made in a public ceremony.

FELLOWSHIP REPAYMENT PROVISIONS

SEC. 576. Repayment of the award shall be made to the Federal Government in the case of fraud or gross noncompliance.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

FINDINGS AND PURPOSES

[SEC. 601. (a) The Congress finds that—

[(1) knowledge of other countries is important in promoting mutual understanding and cooperation between nations;

[(2) strong American educational resources are a necessary base for strengthening our relations with other countries;

[(3) present and future generations of Americans should be given the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge pertaining to other countries, peoples, and cultures; and

[(4) the economy of the United States and the long range security of the Nation are dependent upon acquiring such knowledge.

[(b) It is the purpose of this part to assist in the development of resources and trained personnel for international study, international research, and foreign language study and to coordinate programs of the Federal Government in the areas of international study and research and foreign language study.]

Sec. 601. (a) The Congress finds that—

(1) the well-being of the United States, its economy and long-range security, is dependent on the education and training of Americans in international and foreign lanugage studies and on a strong research base in these areas;

(2) knowledge of other countries and the ability to communicate in other languages is essential to the promotion of mutual understanding and cooperation among nations; and

(3) present and future generations of Americans must be afforded the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge.

(b) It is the purpose of this part to assist in the development of knowledge, international study, resources, and trained personnel, to stimulate the attainment of foreign language acquisition and fluency, and to coordinate the programs of the Federal Government in the areas of foreign language and international studies and research.

GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS

Sec. 602. (a)(1) The Secretary is authorized to make grants to[, and enter into contracts with, institutions of higher education, or combination of such institutions,] for the purpose of establishing, strengthening, and operating graduate [and undergraduate] centers and programs which will be national resources for the teaching of any modern foreign language, for instruction in fields needed to provide a full understanding of the areas, regions, or countries in which such language is commonly used, or for research and training in international studies and the international *and foreign language* aspects of professional and other fields of study *or for instruction and research on issues in world affairs which concern one or more countries.*

(2) Any such grant [or contract] may be used to pay all or part of the cost of establishing or operating a center or program, including the cost of faculty, staff, and student travel in foreign areas, regions, or countries, the cost of teaching and research materials, the cost of curriculum planning and development, the cost of bringing visiting scholars and faculty to the center to teach or to conduct research, and the cost of training and improvement of the staff, for the purpose of, and subject to such conditions as the Sec-

retary finds necessary for, carrying out the objectives of this section.

(3) The Secretary may make grants to centers described in paragraph (1) having important library collections for the maintenance of such collections.

(4)(A) The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training under this subsection in any center or program approved by the Secretary under this part.

(B) Stipend recipients must be individuals who are engaged in a program of competency-based language training in combination with area studies, interntional studies, or the international aspects of a professional studies program.

(C) Stipends awarded to graduate level recipients may include allowances for dependents and for travel for research and study in the United States and abroad.

(5)(A) The Secretary is also authorized to award, on the basis of a national competition, stipends to students beginning their third year of graduate training under this subsection.

(B) Stipend recipients will be selected by a nationally recognized panel of scholars on the basis of exceptional performance (on a nationally referenced test, if available) in the specialty language and evidence of substantial multidisciplinary area training.

(C) Stipends may be held for up to a maximum 4 years contintent on periodic demonstration of a high level of language proficiency.

(D) Stipends are tenable for continuation of studies at the institution where the recipient is currently enrolled and for the conduct of research and advanced language study abroad.

[(b) The Secretary is also authorized to pay stipends to individuals undergoing such advanced training in any center or program approved by the Secretary under this part, including allowances for dependents and for travel for research and study in the United States and abroad.]

(b)(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating undergraduate centers and programs which will be national resources for the teaching of any modern foreign language, for instruction in fields needed to provide a full understanding of the areas, regions, or countries in which such language is commonly used, or for research and training in international studies and the international and foreign language aspects of professional and other fields of study, or for instruction and research on issues in world affairs which concern one or more countries.

(2) Any such grant may be used to pay all or part of the cost of establishing or operating a center or program—

(A) the cost of faculty and staff travel in foreign areas, regions, or countries,

(B) the cost of teaching and research materials, the cost of curriculum planning and development,

(C) the cost of bringing visiting scholars and faculty to the center to teach or to conduct research,

(D) the cost of acquiring periodicals published outside the United States which are not commonly held by an American academic library and which are of scholarly and research importance, together with the cost of maintaining and preserving such periodicals and making them available to researchers and scholars, and

(E) the cost of training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for carrying out the objectives of this section.

(3) The Secretary may make grants to centers described in paragraph (1) having important library collections for the maintenance of such collections.

(c) No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

[INTERNATIONAL STUDIES CENTERS

[SEC. 603. (a)(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating graduate and undergraduate centers which will be regional resources to increase access to research and training in international and foreign language studies and the international aspects of professional and other fields of study. Activities carried out in such centers may be concentrated either on specific geographical areas of the world or on particular fields or issues in world affairs which concern one or more countries, or on both. In addition to providing training to students enrolled in the institution of higher education in which the center is located, the centers serving as regional resources shall, in order to qualify for assistance under this section, offer programs to strengthen international studies and foreign languages in the two-year and four-year colleges and universities in the region served by each such center.

[(2) The Secretary may also make grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines that such grants will make an especially significant contribution to attaining the objectives of this section.

[(b) Grants under this section may be used to pay part or all of the cost of establishing, strengthening, equipping, and operating research and training centers, including the cost of teaching and research materials and resources, the cost of programs for bringing visiting scholars and faculty to the center, and the cost of training, improvement, and travel of the staff for the purposes of carrying out the provisions of this section. Such grants may also include funds for stipends (in such amounts as may be determined in accordance with regulations of the Secretary) to individuals undergoing training in such centers, including allowances for dependents and for travel for research and study in the United States and abroad.

[(c) Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the purposes of this section.]

LANGUAGE RESOURCE CENTERS

SEC. 603. (a) The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating language training centers, which shall serve as resources to improve capacity to teach and learn foreign languages effectively. Activities carried out by such centers may include—

(1) the conduct of research on new and improved teaching methods, including the use of advanced educational technology;

(2) the development of new teaching materials reflecting the use of such research in effective teaching strategies;

(3) the development and application of proficiency testing appropriate to an educational setting for use as a standard and comparable measurement of skill levels in all languages;

(4) the training of teachers in the administration and interpretation of proficiency tests, the use of effective teaching strategies, and the use of new technologies;

(5) the publication of instructional materials in the less commonly taught languages; and

(6) the widespread dissemination of research results, teaching materials, and improved pedagogical strategies to others within the postsecondary education community.

(b) Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the provisions of this section.

UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS

SEC. 604. (a) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to assist them in planning, developing, and carrying out a [comprehensive] program to strengthen and improve undergraduate instruction in international studies and foreign languages. Grants made under this section may be for projects and activities which are an integral part of such a [comprehensive] program, such as—

(1) planning for the development and expansion of undergraduate programs in international studies;

(2) teaching, research, curriculum development, and other related activities;

(3) training of faculty members in foreign countries;

(4) expansion of foreign language courses;

(5) programs under which foreign teachers and scholars may visit institutions as visiting faculty;

(6) programs designed to integrate undergraduate education with terminal Masters Degree programs having an international emphasis; and

(7) the development of an international dimension in *pre-service and in-service* teacher training.

(b) The Secretary may also make grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to attaining the objective of this section.

INTENSIVE SUMMER LANGUAGE INSTITUTES

SEC. 605. (a)(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing and conducting intensive summer language institutes.

(2) Training authorized by this section shall be provided through—

(A) institutes designed to meet the needs for intensive language training by advanced students; or

(B) institutes designed to provide professional development and improve instruction through pre-service and in-service training for language teachers.

(3) Grants made under this section may be used for—

(A) intensive training in languages critical to the national economic and political future;

(B) training in neglected languages; and

(C) stipends for students and faculty attending the institutes authorized by this section.

(4) Institutes supported under this section may provide instruction on a full-time or part-time basis to supplement instruction not fully available in centers supported under sections 602.

(b) Grants made under this section shall be awarded on the basis of recommendations made by peer review panels composed of broadly representative professionals.

RESEARCH; STUDIES; ANNUAL REPORT

SEC. [605.] *606.* (a) The Secretary may, directly or through grants or contracts, conduct research and studies which contribute to the purposes of this part [and part N of title III of the Elementary and Secondary Education Act of 1965]. Such research and studies may include but are not limited to—

(1) studies and surveys to determine the need for increased or improved instruction in modern foreign languages and in other fields needed to provide a full understanding of the places in which such languages are commonly used;

(2) research on more effective methods of providing instruction and evaluating competency in such foreign languages and other fields; [and]

(3) the application of proficiency tests and standards across all areas of instruction and classroom use; and

[(3)] *(4)* the development *and publication* of specialized materials for use in providing such instruction and evaluation or for use in training individuals to provide such instruction and evaluation.

(b) The Secretary shall prepare and publish an annual report listing of the books and research materials produced with assistance under this title.

EQUITABLE DISTRIBUTION OF FUNDS

[SEC. 606. (a) The Secretary shall make excellence the criterion for selection of grants awarded under section 602.

[(b) To the extent practicable and consistent with the criterion of excellence, the Secretary shall award grants under this part (other than section 602) in such manner as will achieve an equitable distribution of funds throughout the Nation.]

SEC. 607. (a) The Secretary shall establish criteria based on excellence for the selection of grants awarded under section 602, employing separate but no less rigorous criteria for undergraduate and graduate programs.

(b) The Secretary shall, to the extent practicable, award grants under this part (other than section 602(a)) in such manner as to achieve an equitable distribution of assistance throughout the Nation, based on the merit of a proposal with peer review by broadly representative professionals.

AUTHORIZATION OF APPROPRIATIONS

[SEC. 607. There are authorized to be appropriated $45,000,000 for fiscal year 1981, $50,000,000 for fiscal year 1982, $60,000,000 for fiscal year 1983, $70,000,000 for fiscal year 1984, and $80,000,000 for fiscal year 1985, to carry out the provisions of this part.]

SEC. 608. There are authorized to be appropriated to carry out the provisions of this part $35,000,000 for fiscal year 1987, $36,750,000 for fiscal year 1988, $38,587,500 for fiscal year 1989, $40,576,875 for fiscal year 1990, and $42,775,312 for fiscal year 1991.

PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

FINDINGS AND PURPOSES

SEC. 611. (a) The Congress finds that—

(1) the future economic welfare of the United States will depend substantially on increasing international skills in the business community and creating an awareness among the American public of the internationalization of our economy;

(2) concerted efforts are necessary to engage business schools, language and area study programs, public and private sector organizations, and United States business in a mutually productive relationship which benefits the Nation's future economic interests;

(3) few linkages presently exist between the manpower and information needs of United States business and the international education, language training and research capacities of institutions of higher education in the United States, and public and private organizations; and

(4) organizations such as world trade councils, world trade clubs, chambers of commerce and State departments of commerce are not adequately used to link universities and business for joint venture exploration and program development.

(b) It is the purpose of this part—

(1) to enhance the broad objective of this Act by increasing and promoting the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development; and

(2) to promote institutional and noninstitutional educational and training activities that will contribute to the ability of United States business to prosper in an international economy.

EDUCATION AND TRAINING PROGRAMS

SEC. 612. (a) The Secretary shall make grants to, and enter into contracts with, institutions of higher education to pay the Federal share of the cost of programs designed to promote linkages between such institutions and the American business community engaged in international economic activity. Each program assisted under this part shall both enhance the international academic programs of institutions of higher education and provide appropriate services to the business community which will expand its capacity to engage in commerce abroad.

(b) Eligible activities to be conducted by institutions of higher education under this section shall include, but are not limited to—

(1) innovation and improvement in international education curricula to serve the needs of the business community, including development of new programs for nontraditional, mid-career, or part-time students;

(2) development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

(3) internationalization of curricula at the junior and community college level, and at undergraduate and graduate schools of business;

(4) development of area studies programs and interdisciplinary international programs;

(5) establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations;

(6) research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students;

(7) establishment of student and faculty fellowships and internships for training and education in international business activities;

(8) development of opportunities for junior business and other professional school faculty to acquire or strengthen international skills and perspectives; and

(9) development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity.

(c) No grant may be made and no contract may be entered into under the provisions of this part unless an institution of higher education submits an application at such time and in such manner as the Secretary may reasonably require. Each such application shall be accompanied by a copy of the agreement entered into by the institution of higher education with a business enterprise, trade organization or association engaged in international economic activity, or a combination or consortium of such enterprises, organizations or associations, for the purpose of establishing, developing, improving or expanding activities eligible for assistance under subsection (b) of this section. Each such application shall contain assurances that the institution of higher education will use the assistance provided under this part to supplement and not to supplant activities conducted by institutions of higher education described in subsection (b).

(d) The Federal share under this part for each fiscal year shall not exceed 50 per centum of the cost of such program.

AUTHORIZATION OF APPROPRIATIONS

SEC. 613. There are authorized to be appropriated [$7,500,000 for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985, to carry out the provisions of this part.] *to carry out the provisions of this part $2,200,000 for the fiscal year 1987, $2,310,100 for fiscal year 1988, $2,425,600 for fiscal year 1989, $2,546,900 for fiscal year 1990, and $2,674,250 for fiscal year 1991.*

PART C—GENERAL PROVISIONS

ADVISORY BOARD

[SEC. 621. (a) Not less than four times each year the Secretary shall convene meetings of an advisory board on the conduct of programs under this title. The board shall consist of—

[(1) one member selected by the Secretary of State;

[(2) one member selected by the Secretary of Defense;

[(3) one member selected by the Secretary of the Treasury;

[(4) one member selected by the Secretary of Commerce;

[(5) one member selected by the Secretary to serve as Chairman and coordinator of the activities of the board;

[(6) one member selected by the Chairman of the National Endowment for the Humanities;

[(7) one member selected by the Director of the International Development Cooperation Agency;

[(8) one member selected by the Director of the International Communication Agency;

[(9) one member selected by the President and Chairman of the Export-Import Bank of the United States;

[(10) one member selected by the Administrator, Small Business Administration;

[(11) five members selected by the Secretary from among representatives of the postsecondary educational community;

[(12) two members selected by the Secretary from among representatives of the elementary and secondary education community;

[(13) three members selected by the Secretary from among members of the public; and

[(14) three members selected by the Secretary from among representatives of the business community.

[(b)(1) The Advisory Board shall establish two subcommittees to carry out the functions described in paragraphs (2) and (3) of this subsection.

[(2) The first such subcommittee shall consider the grants made, or contracts entered into, under part A and part N of title III of the Elementary and Secondary Education Act of 1965. The board shall advise the Secretary on (A) any geographic areas of special need or concern to the United States, (B) the specific foreign languages to be designated under section 394(b)(3) of the Elementary and Secondary Education Act of 1965, (C) innovative approaches which may help to fulfill the purposes of this title, (D) activities which are duplicative of programs operated under other provisions of Federal law, (E) changes which should be made in the operation of programs under this part to ensure that the attention of scholars is attracted to problems of critical concern to United States international relations, and (F) the administrative and staffing requirements of international education programs in the Department.

[(3) The second such subcommittee shall review the programs under section 612 and shall advise the Secretary, who shall seek the advice of the Secretary of Commerce, on (A) changes which should be made to advance the purposes of part B and to assure the success of the programs authorized by part B, (B) special needs of such programs, and (C) any program elements which are duplicative of programs operated under other provisions of Federal law.]

SEC. 621. (a) Not less than two times each year, the Secretary shall convene an advisory board on the conduct of programs under this title. The Advisory Board shall consist of—

(1) five members selected by the Secretary from among members of the postsecondary educational community, at least two of whom shall be considered by their peers to be specialists in one or more fields of language, area or international studies;

(2) two members selected by the Secretary from among members of the public; and

(3) two members selected by the Secretary from among representatives of the business community.

(b) The Secretary may consult with or include as ad hoc ex officio participants in Advisory Board meetings a representative from any appropriate executive agency.

(c) The Advisory Board shall advise the Secretary on—

(1) any geographic areas of special concern to the United States;

(2) innovative approaches which may help to fulfill the purposes of this title;

(3) changes which should be made in the operation of programs under this part to ensure that the attention of scholars is attracted to problems of critical concern to United States international relations;

(4) emerging trends within various segments—precollege, undergraduate, graduate, and postgraduate—of the international education community;

(5) administrative and staffing requirements of international education programs in the Department; and

(6) special needs with regard to the programs operated under part B.

(d) The Advisory Board shall advise the Secretary and the Congress on adequate budget levels for part A and part B of this title.

DEFINITIONS

SEC. 622. (a) As used in this title—

(1) the term "area studies" means a program of comprehensive study of the aspects of a society or societies, including study of its history, culture, economy, politics, international relations and languages;

(2) the term "international business" means profit-oriented business relationships conducted across national boundaries and includes activities such as the buying and selling of goods; investments in industries; the licensing of processes, patents and trademarks; and the supply of services;

(3) the term "export education" means educating, teaching and training to provide general knowledge and specific skills pertinent to the selling of goods and services to other countries, including knowledge of market conditions, financial arrangements, laws and procedures; and

(4) the term "internationalization of curricula" means the incorporation of international or comparative perspectives in existing courses of study or the addition of new components to the curricula to provide an international context for American business education.

(b) All references to individuals or organizations, unless the context otherwise requires, mean individuals who are citizens or permanent residents of the United States or organizations which are organized or incorporated in the United States.

TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

GENERAL PURPOSES

SEC. 701. The Secretary shall carry out programs of financial assistance to institutions of higher education and to higher education building agencies for the construction, reconstruction, or renovation of academic facilities and the acquisition of special equipment if the primary purpose of such assistance is—

(1) to enable such institutions to economize on the use of energy resources, with a priority for the use of coal, solar, and renewable resources;

(2) to enable such institutions to bring their academic facilities into conformity with the requirements of—

(A) the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968,

(B) section 504 of the Rehabilitation Act of 1973, or

(C) environmental protection or health and safety programs mandated by Federal, State, or local law, if such requirements were not in effect at the time such facilities were constructed;

(3) to enable such institutions to construct, reconstruct, or renovate the Nation's research facilities, including libraries, and to acquire special research equipment;

(4) to enable institutions with unusual increases in enrollment (according to data and criteria established by the Secretary) to construct, reconstruct, or renovate their facilities; or

(5) to enable such institutions to detect, remove, or otherwise contain asbestos hazards in academic or other facilities used by students, in accordance with regulations prescribed by the Secretary.

APPROPRIATIONS AUTHORIZED

SEC. 702. There are authorized to be appropriated **[**$100,000,000 for fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1985, for part A. There are authorized to be appropriated $80,000,000 for the fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1985, for part B. There are authorized to be appropriated $80,000,000 for the fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1985, for part C, and such sums as may be necessary for each such fiscal year for section 734.**]** *$10,500,000 for fiscal year 1987, $11,025,000 for fiscal year 1988, $11,576,250 for fiscal year 1989, $12,155,063 for fiscal year 1990, and $12,762,816 for fiscal year 1991 for part A. There are authorized to be appropriated $10,500,000 for fiscal year 1987, $11,025,000 for fiscal year 1988, $11,576,250 for fiscal year 1989, $12,155,063 for fiscal year 1990, and $12,762,816 for fiscal year 1991 for part B. There are authorized to be appropriated $18,795,000 for fiscal year 1987, $19,734,750 for fiscal year 1988, $20,721,488 for fiscal year 1989, $21,757,562 for fiscal year 1990, and $22,845,440 for fiscal year 1991 for part C. There are authorized to be appropriated $24,675,000 for fiscal year 1987, $25,908,750 for fiscal year 1988, $27,204,188 for fiscal year 1989, $28,564,397 for fiscal year 1990, and $29,992,617 for fiscal year 1991 for section 734.*

PART A—GRANTS FOR THE CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF UNDERGRADUATE ACADEMIC FACILITIES

STATE PLAN

SEC. 711. (a) Any State desiring to participate in the grant program authorized by this part shall have an agreement pursuant to section 1203 and submit annually to the Secretary, through the State agency designated in such agreement, a State plan which shall—

(1) provide that the plan shall be administered by the State entity having an agreement under section 1203;

(2) set forth objective standards and methods which are consistent with basic criteria established under section 712, for—

(A) determining the relative priorities of eligible projects submitted by institutions of higher education within the State, and

(B) certifying the Federal share of the cost of each project;

(3) provide for every applicant an opportunity for a hearing before the State agency regarding the priority assigned to such project, or any other decision by the State agency adversely affecting such applicant; and

(4) provide for accounting procedures necessary to assure proper disbursement of Federal funds.

(b) The Secretary shall not disapprove any State plan, or modification thereof, without first affording the State agency reasonable notice and opportunity for a hearing.

(c) Whenever the Secretary finds that the State plan substantially fails to comply with this section, the Secretary shall notify the State that it is ineligible to participate in the program under this part until a determination is made that there is no longer a failure to comply.

BASIC CRITERIA

SEC. 712. (a) The Secretary shall, by regulation, prescribe basic criteria for the consideration of State plans which ensure—

(1) flexibility for States to accommodate the varied needs of institutions in the States;

(2) consideration of the degree to which applicant institutions are effectively using existing facilities; and

(3) that the Federal share shall not exceed 50 percent of the development costs of a project.

(b) Section 553 of title 5, United States Code, shall apply to the prescription of regulations under this section.

ALLOTMENT OF FUNDS

SEC. 713. (a) From the sums appropriated pursuant to section 702 to carry out the purposes of this part, not less than 24 per centum shall be allotted to States under subsection (b) for public community colleges and public technical institutes. The remainder of such sums shall be allotted States under subsection (c) for all other institutions of higher education.

(b)(1) For the purpose of making grants to public community colleges and public technical institutes, the Secretary shall allot to each State an amount which bears the same ratio to the amount available for allotment under this subsection as the product of—

(A) the number of persons in the State who have graduated from high school or received an equivalent certificate during the previous school year, and

(B) the State's allotment ratio,

bears to the sum of the corresponding products for all the States.

(2)(A) Except as provided in subparagraph (B), the allotment ratio shall be 1.00 less the product of—

(i) 0.50, and

(ii) the quotient obtained by dividing the income per person for the State by the income per person for all States (not including Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam).

(B) Notwithstanding subparagraph (A)—

(i) the allotment ratio shall in no case be less than 0.33⅓ or more than 0.66⅔;

(ii) the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam shall be 0.66⅔; and

(iii) the allotment ratio of any State shall be 0.50 for any fiscal year if the Secretary finds that the cost of school construction in such State exceeds twice the median of such costs in all the States as determined by him on the basis of statistics and data as the Secretary shall deem adequate and appropriate.

(C) Allotment ratios shall be promulgated annually by the Secretary on the basis of the average personal income in the State and in all the States for the three most recent consecutive calendar years for which data are available from the Department of Commerce.

(c) For the purpose of making grants to all other institutions of higher education, the Secretary shall allot to each State—

(1) an amount which bears the same ratio to 50 per centum of the amount available for allotment under this subsection as the number of students enrolled in institutions of higher education in such State bears to the number of students so enrolled in all States; and

(2) an amount which bears the same ratio to 50 per centum of the amount available for allotment under this subsection as the number of students enrolled in grades nine through twelve of schools in such State bears to the total number of students so enrolled in all the States.

(d) The aggregate amount allotted to any State under subsections (b) and (c) for any fiscal year shall not be less than $100,000. If the sums appropriated pursuant to section 702 are not sufficient to make payments to each State, then the amount of each State's allotment shall be ratably reduced.

(e) Any portion of a State's allotment under subsections (b) and (c) for any fiscal year for which applications from qualified institutions have not been received by the State agency prior to January 1 of such fiscal year shall, by request, be available for payment of the Federal share of cost of other approved projects.

(f) Amounts allotted under this section for any fiscal year which are not used by the close of the fiscal year, shall be reallotted by the Secretary among the States which are able to use these funds without delay during the next fiscal year.

(g) Funds available under this part may be used for construction, reconstruction, or renovation of undergraduate facilities and combined graduate and undergraduate facilities.

PART B—GRANTS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF GRADUATE ACADEMIC FACILITIES

GRANTS

SEC. 721. (a)(1) Funds available for this part shall be used by the Secretary to make grants to graduate institutions of higher education whose applications for assistance are consistent with the objectives of this title.

(2) The total payment for any fiscal year made to institutions of higher education in any State shall not exceed 12.5 per centum of sums appropriated for this part.

(b) In making grants under this section, the Secretary shall seek the advice and recommendations of a panel of specialists who are not regular full-time employees of the Federal Government and are competent to evaluate such applications.

(c) The amount of the grant shall not exceed 50 per centum of the development cost of the project.

PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

ELIGIBILITY CONDITIONS, AMOUNTS, AND TERMS

SEC. 731. (a) From the sums available for this part, the Secretary shall make and insure loans to institutions of higher education and to higher education building agencies for programs consistent with the purposes of this title. No loan shall be made unless the Secretary finds that—

(1) not less than 20 per centum of the development cost of the project will be financed from non-Federal sources;

(2) the applicant is unable to secure the loan from other sources upon terms and conditions equally as favorable as those applicable to loans under this part;

(3) the project will be undertaken in an economical manner; and

(4) for any project with regard to an infirmary or other outpatient care facility for students and institutional personnel, assistance will not be provided under title IV of the Housing Act of 1950.

(b) Loans shall be repaid within fifty years and shall bear interest at (1) a rate annually determined by the Secretary which shall be not less than one-quarter of 1 percentage point above the average annual interest rate on all interest-bearing obligations of the United States forming a part of the public debt as computed at the end of the preceding fiscal year, adjusted to the nearest one-eighth of 1 per centum, or (2) the rate of 4 per centum per annum, whichever is less.

GENERAL PROVISIONS FOR LOAN PROGRAM

SEC. 732. (a) Financial transactions of the Secretary, except with respect to administrative expenses, shall be final and conclusive on all officers of the Government and shall not be reviewable by any court.

(b) In the performance of, and with respect to, the functions vested in him by this part, the Secretary may—

(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this part;

(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this subsection

by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 507(b) and 517 and 2679 of title 28, United States Code;

(3) foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which he has made a loan pursuant to this part; in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary may complete, administer, remodel and convert, dispose of, lease and otherwise deal with, such property; except that (A) such action shall not preclude any other action by him to recover any deficiency in the amounts loaned and (B) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(4) sell, exchange, or lease real or personal property and securities or obligations;

(5) modify, with respect to the rate of interest, the time of payment of principal, interest, security, or any other term of any contract or agreement to which he is a party, including (A) granting a moratorium on the repayment of principal or interest to a party temporarily unable to make such repayment without undue financial hardship provided the applicant files, and the Secretary approves, a plan to make repayment, and [(B) for any party for which a loan has been authorized prior to January 1, 1976, granting the option to pay into the fund pursuant to section 733, 75 per centum of the party's total obligation if the party desiring to exercise such option makes payment from non-Federal sources prior to October 1, 1985; and] *(B) granting to a borrower of a loan made before October 1 1986, the option of repaying the loan at a discount computed in accordance with subsection (c) if the repayment is (i) made from non-Federal sources, (ii) not derived from proceeds of obligations the income of which is exempt from taxation under the Internal Revenue Code of 1954, and (iii) made on a loan that has been outstanding for at least five years; and*

(6) include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this title will be achieved.

(c) COMPUTATION OF ALLOWABLE DISCOUNTS.—The Secretary shall, in consultation with the Secretary of the Treasury and to the extent consistent with the best financial interests of the Federal Government, compute the discount which may be offered to a borrower as an inducement to early repayment under subsection (b)(5). The price which may be offered shall be the present value of the scheduled future payments on the loan discounted by using, as an imputed interest rate, the current market yields on outstanding mar-

ketable obligations of the United States having comparable maturities.

REVOLVING LOAN AND INSURANCE FUND

SEC. 733. (a) There is created within the Treasury a revolving loan fund for the purpose of making and insuring loans under this part (hereafter called the "fund") which shall be available to the Secretary without fiscal year limitation. The total of any loans made from the fund in any fiscal year shall not exceed limitations specified in appropriations Acts.

(b)(1) The Secretary shall transfer to the fund appropriations provided under section 702 to provide capital for making loans. Interest and principal payments on loans, and any other moneys, property, or assets derived from activities under this part shall be deposited in the fund.

(2) All loans, expenses, and payments pursuant to operation of this part shall be paid from the fund, including expenses and payments in connection with sale, pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, of participations in obligations acquired under this part. At the close of each fiscal year, the Secretary shall pay interest on the cumulative amount of funds paid out for loans under this part less the average undisbursed cash balance in the fund during the year. The interest rate shall be determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund during the month preceding each fiscal year. Interest payments may be deferred with the approval of the Secretary of the Treasury, but interest payments so deferred shall themselves bear interest. If the Secretary determines that moneys in the fund exceed the present and prospective needs of the fund, the excess may be transferred to the general fund of the Treasury.

ANNUAL INTEREST GRANTS

SEC. 734. (a) To assist institutions of higher education and higher education building agencies in reducing the cost of borrowing from other sources for projects under this part, the Secretary may make annual interest grants to such institutions and agencies with respect to any project made over a fixed period not exceeding forty years, and provision for the grants shall be embodied in the contract guaranteeing their payment. Grants shall not be greater than the difference between (1) the average annual debt service which would be required to be paid during the life of the loan on the amount borrowed from other sources for the construction of such facilities, and (2) the average annual debt service which the institution or agency would have been required to pay during the life of the loan if the applicable interest rate had been determined by the Secretary in accordance with section 731(b).

(b) The total amount of annual interest grants which may be paid to institutions of higher education and higher education building agencies in any year pursuant to contracts entered into for such year under this section shall not exceed $13,500,000.

(c) The total payment for any fiscal year made to institutions of higher education and higher education building agencies in any State shall not exceed 12.5 per centum of sums appropriated for this section.

(d) No annual interest grant shall be made unless (1) assurance is provided that not less than 10 per centum of the costs of the project will be financed from non-Federal sources, (2) the applicant is unable to secure a loan from other sources upon terms and conditions as favorable as those applicable to loans under this title, and (3) the project will be undertaken in an economical manner. Loans for which an interest grant is made shall, for purposes of this section only, not be considered financing from a non-Federal source.

ACADEMIC FACILITIES LOAN INSURANCE

SEC. 735. (a)(1) In order to assist institutions of higher education and higher education building agencies to procure loans for programs consistent with the purposes of this title, the Secretary may insure the payment of interest and principal on such loans if such institutions and agencies meet criteria prescribed under section 734 for the making of annual interest grants.

(2) No loan insurance may apply to any loan principal which exceeds 90 per centum of the development cost of the academic facility.

(b)(1) The United States shall be entitled to recover from any institution or agency to which loan insurance has been issued under this section the amount of any payment made pursuant to that insurance, unless the Secretary waives its right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payment with respect to which the payment was made.

(2) Any insurance issued under subsection (a) shall be incontestable in the hands of the institution or agency on whose behalf insurance is issued, and as to any lenders which make or contract to make a loan to such institution or agency in reliance thereon, except for fraud or misrepresentation on the part of such institution or agency or on the part of the lender who makes or contracts to make such loan.

(c) Insurance may be issued by the Secretary under subsection (a) only if he determines that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed a per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, considering interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Secretary may charge a premium for such insurance in an amount determined by him to be necessary to cover administrative expenses and probable losses under subsections (a) and (b). Such insurance shall be subject to such further terms and conditions as the Secretary determines to be necessary.

PART D—HOUSING AND OTHER EDUCATIONAL FACILITIES LOANS

FEDERAL ASSISTANCE IN THE FORM OF LOANS

SEC. 741. (a) AUTHORITY AND CONDITIONS FOR LOANS.—To assist undergraduate postsecondary educational institutions in the construction, reconstruction, or renovation of housing, undergraduate academic facilities, and other educational facilities for students and faculties, the Secretary may make loans of funds to such institutions for the construction, reconstruction, or renovation of such facilities. No such assistance shall be provided unless—

(1) the educational institution involved is unable to secure the necessary funds for the construction or purchase from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this title; and

(2) the Secretary finds that any such construction will be undertaken in an economical manner, and that any such facilities are not or will not be of elaborate or extravagant design or materials.

(b) USE OF LOANS FOR PREVIOUSLY MADE CONTRACTS.—Any undergraduate postsecondary educational institution which, prior to the date of enactment of this section, has contracted for housing or other educational facilities may, in connection therewith, receive loans authorized under this title, as the Secretary may determine. No such loan shall be made for any housing or other educational facilities, the construction of which was begun prior to the effective date of this section, or completed prior to the filing of an application under this title.

(c) AMOUNT AND CONDITIONS OF LOANS.—A loan to an undergraduate postsecondary educational institution—

(1) may be in an amount not exceeding the total development cost of the facility, as determined by the Secretary;

(2) shall be secured in such manner and be repaid within such period, not exceeding forty years, as may be determined by the Secretary; and

(3) shall bear interest at a rate determined by the Secretary which shall be not more than the lower of (A) 5.5 percent per annum, or (B) the total of one-quarter of 1 percent per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury as provided in subsection (d) of this section.

(d) USE OF FUNDS FROM TITLE IV OF THE HOUSING ACT OF 1950.—Funds obtained pursuant to section 401(d) of the Housing Act of 1950 shall be availale for the purposes of carrying out this part. For such purposes, the total amount of notes and obligations which the Secretary may continue to issue and have outstanding for purchase by the Secretary of the Treasury shall not exceed the amount issued and outstanding under such section 401(d) as of September 30, 1985. Such notes and other obligations shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Secretary issued under this part and for

such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such notes and other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired under this part. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(e) USE OF FUNDS.—Not less than 10 percent of the funds held by the Secretary under subsection (d) of this section shall be made available for loans under this part for each fiscal year.

(f) APPROPRIATION TO COVER NOTES AND OBLIGATIONS NOT COVERED BY LOAN REPAYMENT.—There are authorized to be appropriated to the Secretary such sums as may be necessary, together with principal and interest payments made by postsecondary educational institutions assisted with loans made under this part (or under title IV of the Housing Act of 1950), for payment on notes and obligations issued by the Secretary under this part or such title.

GENERAL PROVISIONS

SEC. 742. (a) BUDGET AND ACCOUNTING.—In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary notwithstanding the provisions of any other law, shall—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of chapter 35 of title 31, United States Code, but such financial transactions of the Secretary, as the making of loans and vouchers approved by the Secretary, in connection with such finanical transactions shall be final and conclusive upon all officers of the Government.

(b) USE OF FUNDS.—Funds made available to the Secretary pursuant to the provisions of this part shall be deposited in a checking account or accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of functions under this part, and all funds available for carrying out the functions of the Secretary under this part (including appropriations therefore, which are hereby authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions.

(c) LEGAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary, notwithstanding the provisions of any other law, may—

(1) prescribe such rules and regulations as may be necessary to carry out the purposes for this part;

(2) sue and be sued;

(3) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, con-

tract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which the Secretary has made a loan pursuant to this part;

(4) in the event of any such acquisition, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease and otherwise deal with, such property, but any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(5) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as the Secretary may fix;

(6) obtain insurance against loss in connection with property and other assets held;

(7) subject to the specific limitations in this part, consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which the Secretary is a party or which has been transferred to the Secretary pursuant to this part granting to a borrower of a loan made before October 1, 1986, the option of repaying the loan at a discount computed in accordance with subsection (d) if the repayment is (A) made from non-Federal sources, (B) not derived from proceeds of obligations the income of which is exempt from taxation under the Internal Revenue Code of 1954, and (C) made on loan that has been outstanding for at least five years; and

(8) include in any contract or instrument made pursuant to this title such other covenants, conditions, or provisions as may be necessary to assure that the purposes of this part will be achieved.

(d) Computation of Allowable Discounts.—The Secretary shall, in consultation with the Secretary of the Treasury and to the extent consistent with the best financial interests of the Federal Government, compute the discount which may be offered to a borrower as an inducement to early repayment under subsection (b)(5). The price which may be offered shall be the present value of the scheduled future payments on the loan discounted by using, as an imputed interest rate, the current market yields on outstanding marketable obligations of the United States having comparable maturities.

(e) Contracts for Supplies or Services.—Section 3709 of the Revised Statutes shall not apply to any contract for services or supplies on account of any property acquired pursuant to this part if the amount of such contract does not exceed $1,000.

(f) Applicability of Government Corporation Control Act.—The provisions of sections 9107(a) of title 31, United States Code, which are applicable to corporations or agencies subject to chapter 91 of such title, shall also be applicable to the activities of the Secretary under this part.

(g) Wage Rates.—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors or subcontractors or any project assisted under this part, the construction or rehabilitation of which was commenced after the date of enactment of the House Act of 1950—

(1) shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (Davis-Bacon Act), as amended; and

(2) shall be employed not more than forty hours in any one week unless the employee receives wages for his employment in excess of the hours specified above at a rate not less than one and one-half times the regular rate at which he is employed;

but the Secretary may waive the application of this subsection in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such project, voluntarily donate their services without full compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the educatioal institution undertaking the construction.

APPORTIONMENT; PRIORITIES; LIMITATION

Sec. 743. (a) Apportionment.—Not more than 12.5 percent of the amount of the funds provided for in this part in the form of loans shall be made available to educational institutions within any one State.

(b) Priorities.—In awarding loans under this part, the Secretary shall give priority—

(A) to loans for renovation or reconstruction of undergraduate academic facilities;

(B) to loans for renovation or reconstruction of older undergraduate academic facilities and undergraduate academic facilities that have gone without major renovation or reconstruction for an extended period.

(c) Limitation.—No loan application may be made under this part until 10 years after the date on which an undergraduate postsecondary educational institution received a loan under this part.

DEFINITIONS

Sec. 744. For the purposes of this part—

(1) Housing.—The term "housing" means—

(A) new or existing structures suitable for dwelling use, including single-room dormitories and apartments; and

(B) dwelling facilities provided for rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for the proposed dwelling use.

(2) Educational institution.—The term 'undergraduate postsecondary educational institution' means—

(A)(i) any educational institution which offers, or provides satisfactory assurance to the Secretary that it will offer within a reasonable time after completion of a facility

for which assistance is requested under this part, at least a two-year program acceptable for full credit toward a baccalureate degree (including any public educational institution, or any private educational institution no part of the net earnings of which inures to the benefit of any private shareholder or individual; or

(ii) any public educational institution which—

(I) is administered by a college or university which is accredited by a nationally recognized accrediting agency or association;

(II) offers technical or vocational instruction; and

(III) provides residential facilities for some or all of the students receiving such instruction;

(B) any hospital operating a schol of nursing beyond the level of high school approved by the appropriate State authority, or any hospital approved for interships, by recognized authority, if such hospital is either a public hospital or a private hospital, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(C) any corporation (no part of the net earnings of which insures to the benefit of any private shareholder or individual)—

(i) established for the sole purpose of providing housing or other educational facilities for students or students and faculty of one or more institutions included in clause (A) of this paragraph without regard to their membership in or affiliation with any social, fraternal, or honorary society or organization; and

(ii) upon dissolution of which all title to any property purchased or built from the proceeds of any loan which is made under section 741, will pass to such institution (or to anyone or more of such institutions) unless it is shown to the satisfaction of the Secretary that such property or the proceeds from its sale will be used for some other nonprofit educational purposes;

(D) any agency, public authority, or other instrumentality of any State, established for the purpose of providing or financing housing or other educational facilities for students or faculty of any educational institution included in clause (A) of this paragraph, but nothing in this paragraph shall require an institution included in clause (A) of this paragraph to obtain loans or grants through any instrumentality included in this clause; and

(E) any nonprofit student housing cooperative corporation established for the purpose of providing housing for students or students and faculty of any institution included in clause (A) of this paragraph.

In the case of any loan made under section 741 to a corporation described in clause (C) of this paragraph which was not established by the institution or institutions for whose students or students and faculty it would provide, housing, or to a student housing cooperative corporation described in clause (E) of this paragraph, and in the case of any loan which is obtained from *other sources by such a corporation, the secretary shall require that the note securing such loan be cosigned by such institution (or by any one or more of such institutions). Where the law of any State in effect on the date of enactment of the Housing Act of 1964 prevents the institution or institutions, for whose students or students and faculty housing is to be provided, from cosigning the note, the Secretary shall required the corporation and the proposed project to be approved by such institution (or by any one or more of such institutions) in lieu of such cosigning.*

(3) UNDERGRADUATE ACADEMIC FACILITIES.—(A) Except as provided in subparagraph (B) of this paragraph, the term "undergraduate academic facilities" means structures suitable for use as classrooms, laboratories, libraries, and related facilities, the primary purpose of which is the instruction of students pursuing a baccalaureate degree, or for administration of the educational programs serving such students, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities, as well as infirmaries or other facilities deisigned to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to insure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

(B) The term "undergraduate academic facilities" shall not include—

(i) any facility intended primarly for events for which admission is to be charged to the general public,

(ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other undergaduate academic facilities included under this part,

(iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or

(iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity.

(4) DEVELOPMENT COST.—The term "development cost" means costs of the construction of the housing or other educational facilities and the land on which it is located, including necessary site improvements to permit its use for housing or other educational facilities; except that in the case of the purchase of facilities such term means the cost as approved by the Secretary.

(5) FACULTIES.—The term "faculties" means member of the faculty and their families.

(6) OTHER EDUCATIONAL FACILITIES.—The term "other educational facilities" means (A) new or existing structures suitable for use as cafeterias or dining halls, students centers or student

unions, infirmaries or other inpatient or outpatient health facilities, or for other essential service facilities, and (B) structures suitable for the above uses provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for such uses.

PART [D] *E*—GENERAL

RECOVERY OF PAYMENTS

SEC. [741.] *751.* (a) The Congress declares that, if a facility constructed with the aid of a grant under part A or B of this title is used as an academic facility for twenty years following completion of such construction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of twenty years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this title.

(b) If, within twenty years after completion of construction of an academic facility which has been constructed, in part with a grant under part A or B of this title—

(1) the applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term "academic facility", unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(c) Notwithstanding the provisions of subsections (a) and (b), no project assisted with funds under this title shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

DEFINITIONS

SEC. [742.] *752.* The following definitions apply to terms used in this title:

(1)(A) Except as provided in subparagraph (B) of this paragraph, the term "academic facilities" means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. For purposes of part A or C, such term includes infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to insure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

(B) The term "academic facilities" shall not include (i) any facility intended primarily for events for which admission is to be charged to the general public, or (ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other academic facilities included under this title is required to carry out the objectives of this title, or (iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or (iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity, or (v) any facility used or to be used by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, or school of public health as these terms are defined in section 724 of the Public Health Service Act, or a school of nursing as defined in section 843 of that Act, except that the term "academic facilities" may include any facility described in clause (v) to the degree that such facility is owned, operated, and maintained by the institution of higher education requesting the approval of a project; and that funds available for such facility under such project shall be used solely for the purpose of conversion or modernization of energy utilization techniques to economize on the use of energy resources; and that such project is not limited to facilities described in clause (v) of this subsection.

(2)(A) The term "construction" means (i) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor; or (ii) acquisition of existing structures not owned by the institution involved; or (iii) a combination of either of the foregoing. For the purposes of the preceding sentence, the term "equipment" includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term "initial equipment" means equipment acquired and installed in connection with construction; and the terms "equipment", "initial equipment", and "built-in equipment", shall be more particularly defined by the Secretary by regulation.

(B) The term "reconstruction or renovation" means rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of such equipment) of existing structures. For the purposes of the preceding sentence, the term "equipment" includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term "initial equipment" means equipment acquired and installed either in connection with construction as defined in paragraph (2)(A), or as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; the terms "equipment", "initial equipment", and "built-in equipment" shall be more particularly defined by the Secretary by regulation; and the term "rehabilitation, alteration, conversion, or improvement" includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons.

(3)(A) The term "development cost", with respect to an academic facility, means the amount found by the Secretary to be the cost, to the applicant for a grant or loan under this title, of the construction, reconstruction, or renovation involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its use for such facility. There shall be excluded from the development cost—

(i) in determining the amount of any grant under part A or B, an amount equal to the sum of (I) any Federal grant which the institution has obtained or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a grant under part A or B, and (II) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant; and

(ii) in determining the amount of any loan under part C, an amount equal to the amount of any Federal financial assistance which the institution has obtained, or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a loan under part C.

(B) In determining the development cost with respect to an academic facility, the Secretary may include expenditures for works of art for the facility of not to exceed 1 per centum of the total cost (including such expenditures) to the applicant of construction, reconstruction, or renovation of, and land acquisition and site improvements for, such facility.

(4) The term "Federal share" means in the case of any project a percentage (as determined under the applicable State plan) not in excess of 50 per centum of its development cost.

(5) The term "higher education building agency" means (A) an agency, public authority, or other instrumentality of a State authorized to provide, or finance the construction, reconstruction, or renovation of, academic facilities for institutions of higher education (whether or not also authorized to provide or

finance other facilities for such or other educational institutions, or for their students or faculty), or (B) any corporation (no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual (i) established by an institution of higher education for the sole purpose of providing academic facilities for the use of such institution, and (ii) upon dissolution of which, all title to any property purchased or built from the proceeds of any loan made under part C will pass to such institution), or (C) an institution of postsecondary education.

(6) The term "public community college and public technical institute" means an institution of higher education which is under public supervision and control, and is organized and administered principally to provide a two-year program which is acceptable for full credit toward a bachelor's degree, or a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; and the term includes a branch of an institution of higher education offering four or more years of higher education which is located in a community different from that in which its parent institution is located.

(7) The term "public educational institution" does not include a school or institution of any agency of the United States.

(8) The term "State" includes in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

TITLE VIII—COOPERATIVE EDUCATION

[APPROPRIATIONS AUTHORIZED

[SEC. 801. (a) There are authorized to be appropriated—

[(1) for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, $13,000,000;

[(2) for the fiscal year 1977, $15,000,000;

[(3) for the fiscal year 1978, $20,000,000;

[(4) for the fiscal years 1979 and 1980, $25,000,000; and

[(5) for each of the fiscal years 1981, 1982, 1983, 1984, and 1985, $30,000,000, to enable the Secretary to make grants pursuant to section 802 to institutions of higher education, or to combinations of such institutions, for the planning, establishment, expansion, or carrying out by such institutions or combinations of programs of cooperative education. Such programs shall provide alternating or parallel periods of academic study and of public or private employment, the latter affording students not only the opportunity to earn the funds necessary for continuing and completing their education but, so far as practicable, giving them work experience related to their academic or occupational objectives.

[(b) There are further authorized to be appropriated—

[(1) $1,000,000 for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976;

[(2) $1,500,000 for the fiscal year 1977;

[(3) $2,500,000 for the fiscal year 1978;

[(4) $3,000,000 for each of the fiscal years 1978, 1979, and 1980; and

[(5) $5,000,000 for each of the fiscal years 1981, 1982, 1983, 1984, and 1985,

to enable the Secretary to make training, demonstration, or research grants or contracts pursuant to section 803.

[(c) Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangements pursuant to this part.

[GRANTS FOR PROGRAMS OF COOPERATIVE EDUCATION

[SEC. 802. (a) From the sums appropriated pursuant to subsection (a) of section 801, and for the purposes set forth therein, the Secretary is authorized to make grants to institutions of higher education that have applied therefor in accordance with subsection (b) of this section, in amounts not in excess of $325,000 to any one such institution for any fiscal year, and to combinations of such institutions (that have so applied) in amounts not to exceed an amount equal to the product of $250,000 times the number of institutions participating in such combination, for any fiscal year.

[(b) Each application for a grant authorized by subsection (a) of this section shall be filed with the Secretary at such time or times as he may prescribe and shall—

[(1) set forth program or activities for which a grant is authorized under this section;

[(2) specify the portion or portions of such programs or activities which will be performed by a nonprofit organization or institution other than the applicant and the compensation to be paid for such performance;

[(3) provide that the applicant will expend during such fiscal year for the purpose of such program or activity not less than was expended for such purpose during the previous fiscal year;

[(4) provide that the applicant shall make such reports and keep such records as are essential to insure that the applicant's programs or activities are conducted in accordance with the provisions of this part;

[(5) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this part; and

[(6) include such other information as is essential to carry out the provisions of this part.

[(c) No individual unit of institution of higher education may receive, individually or as a participant in a combination of such institutions, grants under this section for more than five fiscal years. No such institution or combination thereof may receive—

[(1) a grant in excess of 100 per centum of the total administrative cost for the first of such fiscal years;

[(2) a grant in excess of 90 per centum of such cost for the second of such years;

[(3) a grant in excess of 80 per centum of such cost for the third of such years;

[(4) a grant in excess of 60 per centum of such cost for the fourth of such years; or

[(5) a grant in excess of 30 per centum of such cost for the fifth of such years.

Any provision of law to the contrary notwithstanding, the Secretary shall not waive the provisions of this subsection.

[(d) In approving applications under this section, the Secretary shall give special consideration to applications from institutions of higher education for programs which show the greatest promise of success because of—

[(1) the extent to which programs in the academic discipline with respect to which the application is made have had a favorable reception by employers,

[(2) the commitment of the institution of higher education to cooperative education as demonstrated by the plans which such institution has made to continue the program after the termination of Federal financial assistance, and

[(3) such other factors as are consistent with the purposes of this section.

[GRANTS AND CONTRACTS FOR TRAINING AND RESEARCH

[Sec. 803. From the sums appropriated pursuant to subsection (b) of section 801, the Secretary is authorized, for the training of persons in the planning, establishment, administration, or coordination of programs of cooperative education, for projects demonstrating or exploring the feasibility or value of innovative methods of cooperative education, or for research into methods of improving, developing, or promoting the use of cooperative education programs in institutions of higher education, to—

[(1) make grants to or contracts with institutions of higher education, or combinations of such institutions, and

[(2) make grants to or contracts with other public or private nonprofit agencies or organizations, when such grants or contracts will make an especially significant contribution to attaining the objectives of this section.

APPROPRIATIONS AUTHORIZED; RESERVATIONS

Sec. 801. (a) Appropriations Authorized.—There are authorized to be appropriated $15,120,000 for fiscal year 1987, $15,876,000 for fiscal year 1988, $16,670,000 for fiscal year 1989, $17,500,000 for fiscal year 1990, and $18,380,000 for fiscal year 1991 to carry out the cooperative education program authorized by this title.

(b) Reservations.—Of the amounts appropriated in each fiscal year—

(1) not less than 75 percent shall be available for carrying out grants to institutions of higher education and combinations of such institutions for cooperative education under section 802;

(2) not to exceed 12½ percent shall be available for demonstration projects under clause (1) of section 803(a);

(3) not to exceed 10 percent shall be available for training and resource centers under clause (2) of section 803(a); and

(4) not to exceed 2½ percent shall be available for research under clause (3) of section 803(a).

(c) AVAILABILITY OF APPROPRIATIONS.—Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangements pursuant to this title.

GRANTS FOR COOPERATIVE EDUCATION PROGRAMS

SEC. 802. (a) GRANTS AUTHORIZED; MAXIMUM AMOUNT OF GRANT.—(1) The Secretary is authorized, from the amount available under section 801(b)(1) in each fiscal year and in accordance with the provisions of this title, to make grants to institutions of higher education, or to combinations of such institutions, to pay the Federal share of the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions or combinations of institutions.

(2)(A) Cooperative education programs assisted under this section shall provide alternating or parallel periods of academic study and of public or private employment, giving work experience related to their academic or occupational objectives and the opportunity to earn the funds necessary for continuing and completing their education.

(B) The amount of each grant shall not exceed $500,000 to any one institution of higher education in any fiscal year, and shall not exceed an amount equal to the product of $345,000 times the number of institutions participating in such combination, for any fiscal year.

(b) APPLICATIONS.—Each institution of higher education, or combination of institutions desiring to receive a grant under this title shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe. Each such application shall—

(1) set forth the program or activities for which a grant is authorized under this section;

(2) specify each portion of such program or activities which will be performed by a nonprofit organization or institution other than the applicant and the compensation to be paid for such performance;

(3) provide that the applicant will expand during such fiscal year for the purpose of such program or activities not less than the amount expended for such purpose during the previous fiscal year;

(4) describe the plans which the applicant will carry out to assure that the applicant will continue the cooperative education program beyond the 5-year period of Federal assistance described in subsection (c)(1);

(5) provide that, in the case of an institution of higher education that provides a 2-year program which is acceptable for full credit toward a bachelor's degree, the cooperative education program will be available to students who are certificate candidates and who carry at least one-half the normal full time academic workload;

(6) provide that the applicant will—

(A) make such reports as may be essential to insure that the applicant is complying with the provisions of this section, including in the reports for the second and each succeeding fiscal year for which the applicant receives a grant data with respect to the impact of the cooperative education program in the previous fiscal year, including—

(i) the number of students enrolled in the cooperative education program,

(ii) the number of employers involved in the program,

(iii) the income of the students enrolled, and

(iv) the increase or decrease of enrollment in the program in the second previous year compared to such previous fiscal year; and

(B) keep such records as are essential to insure that the applicant is complying with the provisions of this title;

(7) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

(8) include such other information as is essential to carry out the provisions of this title.

(c) Duration of Grants; Federal Share.—(1)(A) Except as provided in paragraph (3), no individual institution of higher education, and no individual participant in a combination of such institutions may receive grants under this section for more than 5 fiscal years.

(B) The limitation contained in subparagraph (A) shall apply to each institution of higher education or participant in a combination of such institutions whether the grant was received before or after the date of enactment of the Cooperative Education Act of 1985.

(2) The Federal share of a grant under this section may not exceed—

(A) 90 percent of the cost of carrying out the application in the first year the applicant receives a grant under this section;

(B) 80 percent of such cost in the second such year;

(C) 70 percent of such cost in the third such year;

(D) 60 percent of such cost in the fourth such year; and

(E) 30 percent of such cost in the fifth such year.

(3) Any institution of higher education, or participant in a combination of such institutions which—

(A) has received a grant for 5 fiscal years under this section;

(B) has conducted without Federal assistance a cooperative education program for at least 2 academic years subsequent to the end of the fifth such fiscal year;

(C) has expended for the cooperative education program for each such subsequent academic year an amount at least equal to the total cost of the program in the fifth fiscal year in which

the institution, or participant, received assistance under this section; and

(D) provides statistics in the application rquired under subsection (b) on the number of students enrolled in the cooperative education program, the number of institutional personnel, including faculty advisers and cooperative education coordinators, and the income of the students enrolled, for each such year;

may apply under subsection (b) as an institution, or participant, to which clause (A) of paragraph (2) applies.

(4) Any provision of law to the contrary notwithstanding, the Secretary shall not waive the provisions of this subsection.

(d) FACTORS FOR SPECIAL CONSIDERATION OF APPLICATIONS.—In approving applications under this section, the Secretary shall give special consideration to applications from institutions of higher education for programs which show the greatest promise of success because of—

(1) the extent to which programs in the academic discipline with respect to which the application is made have had a favorable reception by public and private sector employers,

(2) the commitment of the institution of higher education to cooperative education has demonstrated by the plans which such institution has made to continue the program after the termination of Federal financial assistance,

(3) the extent to which the institution is committed to extending cooperative education on an institution-wide basis for all students who can benefit, and

(4) such other factors as are consistent with the purposes of this section.

DEMONSTRATION AND INNOVATION PROJECTS; TRAINING AND RESOURCE CENTERS; AND RESEARCH

SEC. 803. (a) AUTHORIZATION.—The Secretary is authorized, in accordance with the provisions of this section, to make grants and enter into contracts for—

(1) the conduct of demonstration projects designed to demonstrate or determine the feasibility or value of innovative methods of cooperative education from the amounts available in each fiscal year under section 801(b)(2);

(2) the conduct of training and resource centers designed to—

(A) train personnel in the field of cooperative education;

(B) improve materials used in cooperative education programs;

(C) furnish technical assistance to institutions of higher education to increase the potential of the institution to continue to conduct a cooperative education program without Federal assistance;

(D) encourage model cooperative education programs which furnish education and training in occupations in which there is a national need; and

(E) partnerships under which an institution carrying out a comprehensive cooperative education program joins with another institution of higher education in order to (i) assist

the institution other than the comprehensive cooperative education institution to develop and expend an existing program of cooperative education, or (ii) establish and improve or expand comprehensive cooperative education programs,

from the amounts available in each fiscal year under section 801(b)(3); and

(3) the conduct of research relating to cooperative education, from the amounts available in each fiscal year under section 801(b)(4).

(b) Administrative Provision.—To carry out this section, the Secretary may—

(1) make grants to or contracts with institutions of higher education, or combinations of such institutions, and

(2) make grants to or contracts with other public or private nonprofit agencies or organizations, whenever such grants or contracts will make an especially significant contribution to attaining the objectives of this section.

(c) Supplement Not Supplant.—A recipient of a grant or contract under this section may use the funds provided only so as to supplement and, to the extent possible, increase the level of funds that would, in the absence of such funds, be made available from non-Federal sources to carry out the activities supported by such grant or contract, and in no case to supplant such funds from non-Federal sources.

TITLE IX—GRADUATE PROGRAMS

[PART A—GRANTS TO INSTITUTIONS OF HIGHER EDUCATION

[PURPOSES; AUTHORIZATION

[SEC. 901. (a) It is the purpose of this part to make financial assistance available to institutions of higher education—

[(1) to maintain, strengthen, and improve the quality of graduate and professional programs leading to an advanced degree (other than a medical degree) in such institutions;

[(2) to establish, strengthen, and improve programs designed to prepare graduate and professional students for public service; and

[(3) to assist in strengthening undergraduate programs if instruction in the areas described in clauses (1) and (2), whenever the Secretary determines that strengthened undergraduate programs of instruction will contribute to the purposes of such clauses.

[(b) The Secretary shall carry out a program of making grants to institutions of higher education to carry out the purposes set forth in subsection (a).

[(c) There are authorized to be appropriated $50,000,000 for each of the fiscal years ending prior to October 1, 1985, for the purpose of this part.

[APPLICATIONS FOR GRANTS

[SEC. 902. (a) The Secretary is authorized to make grants to institutions of higher education in accordance with the provisions of this part. An institution of higher education desiring to receive a grant under this part shall submit to the Secretary an application therefor at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out one or more of the purposes set forth in section 901(a) in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purpose or purposes, and such other policies, procedures, and assurances as the Secretary may require by regulation.

[(b) The Secretary shall approve an application only if he determines that the application (1) sets forth a program of activities which are likely to make substantial progress toward achieving the purposes of this part, and (2) provides assurances that the institution has notified the appropriate State commission (established or designated under section 1202 of this Act) and that the State commission has been given the opportunity to offer recommendations on the application to the institution and the Secretary.

[(c) In considering an application under this part for a program of activities from an institution of higher education within a State, the Secretary shall assure that consideration is given to the degree to which such program will be consistent with State, regional, or national priorities.

[AUTHORIZED ACTIVITIES

[SEC. 903. (a) The funds appropriated pursuant to section 901(c) may be used for such purposes as the Secretary determines will best accomplish the purposes of this part.

[(b) Such funds may be used solely for the purposes set forth in an application approved under section 902 and solely for the purpose of accomplishing the purposes stated in section 901(a), and to that end such funds may be used for—

[(1) faculty improvement;

[(2) the maintenance and improvement of quality of graduate and professional programs of study;

[(3) the acquisition of appropriate instructional equipment and materials;

[(4) cooperative arrangements among graduate and professional schools;

[(5) the strengthening of graduate and professional school administration; and

[(6) the development of proposed graduate and professional programs; and

[(7) needed innovation in graduate and professional programs.

[(c) No sums granted under this part may be used—

[(1) for payment in excess of 66⅔ per centum of the total cost of such project or activity;

[(2) for payment in excess of 50 per centum of the cost of the purchase or rental of books, audiovisual aids, scientific apparatus, or other materials or equipment, less any per centum of such cost, as determined by the Secretary, that is paid from sums received (other than under this part) as Federal financial assistance; or

[(3) for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity.

[RESEARCH AND STUDIES

[Sec. 904. The Secretary is authorized, directly or by contract, to conduct studies and research activities in connection with the need for, and improvement of, graduate programs in various fields of study in institutions of higher education throughout the United States.**]**

Part B—Fellowships for Graduate and Professional Study

STATEMENT OF PURPOSE

Sec. 921. It is the purpose of this part to provide, through institutions of higher education, a program of grants to assist in making available the benefits of post-baccalaureate education to graduate and professional students who demonstrate financial need.

PROGRAM AUTHORIZED

Sec. 922. (a) The Secretary shall make grants to institutions of higher education to enable such institutions to make grants in accordance with the provisions of this part.

(b)**[**(1)**]** In making such grants the Secretary shall, to the maximum extent feasible, ensure an equitable geographic distribution of awards and an equitable distribution among eligible public and independent institutions of higher education.

[(2) The Secretary shall not make a grant to a single institution of higher education of less than $75,000 from the sums appropriated under this part for any fiscal year.**]**

[(3)**]** *(2)* Whenever the Secretary determines that an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot such amounts not needed to institutions which can use the grants authorized by this part.

(c) Any eligible institution of higher education offering a program of post-baccalaureate study leading to a graduate or professional degree may apply for grants under this part. Each such institution may make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. *Each such application may be made on behalf of any professional school, academic department or similar organizational unit, or interdisciplinary or interdepartmental program within the institution of higher education meeting the requirements of this subsection.*

(d) In making grants to institutions of higher education, the Secretary shall—

(1) take into account present and projected needs for highly trained individuals in all areas of education beyond high school;

(2) take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority; and

(3) consider the need to prepare a larger number of individuals from minority groups, especially from among such groups which have been traditionally underrepresented in colleges and universities, but nothing contained in this paragraph shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefits of the program authorized in this section, in comparison with the total number or percentage of individuals of such group in any community, State, section, or other area.

(e) The Secretary shall assure that, in making grants under this part, awards are made to—

(1) individuals who plan to pursue a career in public service;

(2) individuals who plan to pursue advanced study in domestic mining and mineral and mineral fuel conservation, including oil, gas, coal, oil shale, and uranium; and

(3) individuals from traditionally underrepresented groups, as determined by the Secretary, undertaking graduate or professional study.

The Secretary shall assure that the amount expended for categories of fellowships described in paragraphs (1), (2), and (3) of this subsection for each fiscal year is not less than the amount expended for each category in fiscal year 1979.

(f) From sums required to be expended by the Secretary for grants under subsection (e), the Secretary may (in addition to the awards made to individuals) pay to the institution of higher education at which such person is pursuing his course of study such amounts as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection. *The amount paid to an institution of higher education under this subsection for any such person may not be less than $4,200.*

(g) No fellowship shall be awarded under this part for study at a school or department of divinity.

AWARD OF FELLOWSHIPS

SEC. 923. (a) An institution of higher education receiving funds under this part shall make available to financially needy graduate and professional students an award determined by such institution of higher education, except that no award under this part may exceed [$4,500,] *$7,000,* or the demonstrated level of financial need according to measurements of need approved by the Secretary, whichever is lower.

(b) No student shall receive an award except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded and is not engaging in gainful employment other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed a total of 3 years, except that the Secretary may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period, in addition to the 3 year period set forth in this section, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 924. There are authorized to be appropriated to carry out the provisions of this part $60,000,000 for each of the fiscal years 1981 and 1982 and such sums as may be necessary for the fiscal year 1983 and each of the succeeding fiscal years ending before October 1, 1985.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 924. There are authorized to be appropriated to carry out the provisions of this part $18,480,000 for fiscal year 1987, $19,404,000 for fiscal year 1988, $20,374,000 for fiscal year 1989, $21,393,000 for fiscal year 1990, and $22,463,000 for fiscal year 1991.

PART C—NATIONAL GRADUATE FELLOWS PROGRAM

AWARD OF NATIONAL GRADUATE FELLOWSHIPS

SEC. 931. (a)(*1*) During the fiscal year ending September 30, 1981, and each of the succeeding fiscal years ending prior to October 1, [1985,] *1991,* the Secretary is authorized to award not more than 450 fellowships in accordance with the provisions of this part for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement and exceptional promise. Such fellowships shall be awarded for such periods as the Secretary may determine, but not in excess of forty-eight months.

(2) Students receiving awards under this part shall be known as "Jacob J. Javits Fellows".

(b) The Secretary may allow a fellowship recipient to interrupt periods of study for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program, except that for such period the Secretary shall make no payments to the fellowship recipients or payments to institutions pursuant to the fellowship award of the recipient.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.

ALLOCATION OF FELLOWSHIPS

Sec. 932. (a)(1) The President shall appoint a National Graduate Fellows Program Fellowship Board consisting of not less than nine and not more than fifteen individuals representative of both public and private institutions of higher education especially qualified to serve on the Board. In making appointments, the President shall give due consideration to the appointment of individuals who are highly respected in the academic community.

(2) The Board shall—

(A) establish general policies for the program established by this part and oversee its operation;

(B) select each year the fields in which fellowships under this part are to be awarded;

(C) determine the number of fellowships each year to be awarded under this part in each designated field;

(D) appoint distinguished panels in each field for the purpose of selecting fellows; and

(E) prepare and submit to the Congress, at least once in every three year period, a report on any modifications in the program that the Board determines to be appropriate.

(3) In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institutions, learned societies, and professional organizations.

(4) The term of office of each member of the Board shall be six years; except that (A) the members first taking office shall serve as designated by the President, one-third of the members for terms of two years, one-third of the members for terms of four years, and one-third of the members for terms of six years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. No member may serve for a period in excess of eight years.

(5) The President shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve until one year after the date of their appointment. Thereafter each officer shall be elected for a term of two years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

(6)(A) A majority of the members of the Board shall constitute a quorum.

(B) The Board shall meet at least four times a year.

(7) Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the President, but not exceeding the rate prescribed for GS-18 of the General Schedule under section 5332, title 5, United States

Code, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(b) The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Fellowship Board to make such selections under criteria established by the Board. The number of recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Fellowship Board.

(c) Each recipient shall be entitled to use the fellowship in a doctoral program at any accredited institution of higher education in which the recipient may decide to enroll.

No sums are authorized to be appropriated to carry out the provisions of this part in excess of $2,625,000 for fiscal year 1987, $2,756,000 for fiscal year 1988, $2,894,000 for fiscal year 1989, $3,039,000 for fiscal year 1990, and $3,191,000 for fiscal year 1991.

STIPENDS

SEC. 933. (a) The Secretary shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such individuals and their dependents) as the Secretary may determine to be appropriate, adjusting such stipends as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.

(b) The Secretary shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study such amount as the Secretary may determine to be appropriate, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

FELLOWSHIP CONDITIONS

SEC. 934. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 933 only during such periods as the Secretary finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

(b) The Secretary is authorized to require reports containing such information in such form and to file at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this part. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.

PART D—ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION

PROGRAM AUTHORIZED

SEC. 941. (a) The Secretary is authorized prior to October 1, 1985, to make grants to, or enter into contracts with, public and private agencies and organizations other than institutions of higher education for the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake training for the legal profession.

(b) Grants made, and contracts entered into, under subsection (a) may cover, in accordance with regulations of the Secretary, all or part of the cost of—

(1) selecting individuals from disadvantaged backgrounds for training for the legal profession,

(2) facilitating the entry of such individuals into institutions of higher education for the purpose of pursuing such training,

(3) providing counseling or other services designed to assist such individuals to complete successfully such training,

(4) providing, for not more than six months prior to the entry of such individuals upon their courses of training for the legal profession, preliminary training for such individuals designed to assist them to complete successfully such training for the legal profession,

(5) paying such stipends (including allowances for travel and for dependents) as the Secretary may determine for such individuals for any such period of preliminary training or for any period of training for the legal profession during which such individuals maintain satisfactory academic proficiency, as determined by the Secretary, and

(6) paying for administrative activities of the agencies and organizations which receive such grants, or with which such contracts are entered into, to the extent such activities are for the purpose of furthering activities described in clauses (1) through (5).

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 942. There are authorized to be appropriated to carry out the provisions of this part $5,000,000 for fiscal year 1981, $5,000,000 for fiscal year 1982, $7,500,000 for fiscal year 1983, $7,500,000 for fiscal year 1984, and $10,000,000 for fiscal year 1985.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 942. There are authorized to be appropriated to carry out the provisions of this part $1,575,000 for fiscal year 1987, $1,653,750 for fiscal year 1988, $1,736,437 for fiscal year 1989, $1,823,259 for fiscal year 1990, and $1,874,421 for fiscal year 1991.

PART E—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

PROGRAM AUTHORIZATION

SEC. 951. (a) The Secretary is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 per centum of the costs of establishing or expanding programs in such schools to provide clinical experience to students in the practice of law, which includes any form of law student work involving performance in the role of a lawyer exercising legal skills and roles such as those of an advocate, counselor, negotiator, investigator, and ethical practitioner, whether by way of the provision of representation of or services to an identifiable client in actual cases or situations (subject to existing State or local limitations upon such provision) or by way of simulation of such provision through appropriate exercises. The cases and situations handled in actuality or by simulation may encompass any one or more of the following:

(1) judicial, administrative, executive, or legislative proceedings, including the full range of preparation therefor;

(2) office or house counsel problems; or

(3) factual investigation, empirical research, or policy or legal analysis.

(b) Such costs may include necessary expenditures incurred for—

(1) planning;

(2) training of faculty members and salary for additional faculty members;

(3) travel and per diem for faculty and students;

(4) reasonable stipends for students for work in the public service performed as part of any such program at a time other than during the regular academic year;

(5) equipment and library resources;

(6) involving practicing lawyers in the process of training law students to perform as lawyers; and

(7) such other items as are allowed pursuant to regulations issued by the Secretary.

(c) No law school may receive more than $100,000 in any fiscal year pursuant to this part, no part of which may be used to pay for indirect costs or charges.

(d) For the purpose of this part the term "accredited law school" means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, including any combination or consortium of such schools.

APPLICATIONS

SEC. 952. (a) A grant or contract authorized by this part may be made by the Secretary upon application which—

(1) is made at such time or times and contains such information as he may prescribe;

(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

(3) provides for making such reports, in such form and containing such information as the Secretary may require to carry out his functions under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(b) The Secretary shall allocate grants or contracts under this part in such manner as will provide an equitable distribution of such grants or contracts throughout the United States among law schools which show promise of being able to use funds effectively for the purposes of this part.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 953. There are authorized to be appropriated $5,000,000 for the fiscal year 1981, $8,000,000 for the fiscal year 1982, $8,000,000 for the fiscal year 1983, $9,000,000 for the fiscal year 1984, and $10,000,000 for the fiscal year 1985, to carry out the purposes of this part.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 953. There are authorized to be appropriated to carry out the provisions of this part $1,575,000 for fiscal year 1987, $1,653,750 for fiscal year 1988, $1,736,437 for fiscal year 1989, $1,823,259 for fiscal year 1990, and $1,874,421 for fiscal year 1991.

TITLE X—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

PART A—ESTABLISHMENT AND OPERATION OF FUND

AUTHORIZATION OF PROGRAM

SEC. 1001. Subject to the provisions of section 1002, the Secretary is authorized to make grants to, and contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by providing assistance to such educational institutions and agencies for—

(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experiential learning;

(3) the establishment of institutions and programs based on the technology of communications;

(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

(5) the design and introduction of cost-effective methods of instruction and operation;

(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

CONSULTATION

SEC. 1002. No grant shall be made or contract entered into under section 1001 for a project or program with any institution of postsecondary education unless it has been submitted to the appropriate State entity having an agreement under section 1203, and an opportunity has been afforded such entity to submit its comments and recommendations to the Secretary.

NATIONAL BOARD OF THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 1003. (a) There is established a National Board of the Fund for the Improvement of Postsecondary Education. The Board shall consist of fifteen members appointed by the Secretary for overlapping three-year terms. A majority of the Board shall constitute a quorum. Any member of the Board who has served for six consecutive years shall thereafter be ineligible for appointment to the Board during a two-year period following the expiration of such sixth year.

(b) The Secretary shall designate one of the members as Chairman. A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for improvement in postsecondary education and strategies of educational and institutional change.

(c) The Board shall—

(1) advise the Secretary and the Director of the Fund for the Improvement of Postsecondary Education on priorities for the improvement of postsecondary education and make such recommendations as it may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;

(2) advise the Secretary and the Director of the Fund on the development of programs to be carried out by the Fund and on the selection of projects under consideration for support by the Fund in its competitions;

(3) advise the Secretary and the Director of the Fund on the operation of the Fund, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund; and

(4) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

(d) The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

ADMINISTRATIVE PROVISIONS

SEC. 1004. (a) The Secretary may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than five technical employees to administer this title who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this title. Procedures for reviewing grant applications or contracts for financial assistance under this section may not be subject to any review outside of officials responsible for the administration of the Fund for the Improvement of Postsecondary Education.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 1005. There are authorized to be appropriated to carry out this title $20,000,000 for fiscal year 1981, $30,000,000 for fiscal year 1982, $40,000,000 for fiscal year 1983, $45,000,000 for fiscal year 1984, and $50,000,000 for fiscal year 1985.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 1005. There are authorized to be appropriated to carry out this title $13,350,000 for fiscal year 1987, $14,010,000 for fiscal year 1988, $14,710,000 for fiscal year 1989, $15,450,000 for fiscal year 1990, and $16,220,000 for fiscal year 1991.

[PART B—ESTABLISHMENT OF AGENCIES

[ESTABLISHMENT OF BUREAU OF OCCUPATIONAL AND ADULT EDUCATION

[SEC. 1021. (a) There is hereby established in the United States Office of Education a Bureau of Occupational and Adult Education hereinafter referred to as the Bureau, which shall be responsible for the administration of the Vocational Education Act of 1963, including parts C and I hereof, the Adult Education Act, functions of the Office of Education relating to manpower training and development, functions of the Office relating to vocational, technical, and occupational training in community and junior colleges, and any other Act vesting authority in the Secretary for vocational, occupational, adult and continuing education and for those portions of any legislation for career education which are relevant to the purposes of other Acts administered by the Bureau.

[(b)(1) The Bureau shall be headed by a person (appointed or designated by the Secretary) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Secretary, and who shall be compensated at the rate specified for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

[(2) Additional positions are created for, and shall be assigned to, the Bureau as follows:

> [(A) Three positions to be placed in grade 17 of such General Schedule, one of which shall be filled by a person with broad experience in the field of junior and community college education,
>
> [(B) Seven positions to be placed in grade 16 of such General Schedule, at least two of which shall be filled by persons with broad experience in the field of postsecondary-occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling, and
>
> [(C) Three positions which shall be filled by persons at least one of whom is a skilled worker in a recognized occupation, another is a subprofessional technician in one of the branches of engineering, and the other is a subprofessional worker in one of the branches of social or medical services, who shall serve as senior advisers in the implementation of this title.

[COMMUNITY COLLEGE UNIT

[SEC. 1022. (a) There is established, in the Office of Education, a Community College Unit (in this section referred to as the "Unit") which shall have the responsibility for coordinating all programs administered by the Secretary which affect, or can benefit, community colleges, including such programs assisted under this Act, and the Carl D. Perkins Vocational Educational Act.

[(b) The Unit shall be headed by a Director who shall be placed in grade 17 of the General Schedule under section 5332 of title 5, United States Code.]

PART B—INNOVATIVE PROJECTS FOR COMMUNITY SERVICES AND STUDENT FINANCIAL INDEPENDENCE

STATEMENT OF PURPOSE

SEC. 1021. It is the purpose of this part to support innovative projects in order to determine the feasibility of encouraging student participation in community service projects in exchange for educational services or financial assistance and thereby reduce the debt acquired by students in the course of completing postsecondary educational programs.

INNOVATIVE PROJECTS FOR COMMUNITY SERVICES AND STUDENT FINANCIAL INDEPENDENCE

SEC. 1022. (a) GENERAL AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this part, to make grants to *and contracts with institutions of higher education (including combinations of such institutions) and with such other public agencies and nonprofit private organizations as the Secretary deems necessary for innovative projects designed to carry out the purpose of this part.*

(b) Applications.—No grant may be made and no contract may be entered into under this section unless an application is made at such time, in such manner, and contained or accompanied by such information as the Director may require.

(c) Applicable Procedures.—(1) No application may be approved under subsection (b) unless the National Board Fund for Improvement of Postsecondary Education, under procedures established by the Director, approves the application.

(2) The provisions of section 1004(b) shall apply to grants made under this part.

AUTHORIZATION OF APPROPRIATIONS

Sec. 1023. (a) There are authorized to be appropriated to carry out this part, $3,800,000 for fiscal year 1987, $4,000,000 for fiscal year 1988, $4,200,000 for fiscal year 1989, $4,400,000 for fiscal year 1990, and $4,600,000 for fiscal year 1991.

(b) No funds may be appropriated pursuant to subsection (a) of this section for any fiscal year unless funds are appropriated for part A of this title for such fiscal year.

Part C—Minority Institutions Science Improvement Program

PROGRAM AUTHORIZED

Sec. 1031. There are authorized to be appropriated for the purpose of carrying out the Minority Institutions Science Improvement Program transferred to the Secretary from the National Science Foundation by section 304 of the Department of Education Organization Act, $3,000,000 for the fiscal year 1987, $3,150,000 for fiscal year 1988, $3,307,500 for fiscal year 1989, $3,472,875 for fiscal year 1990, and $3,646,519 for fiscal year 1991.

[TITLE XI—URBAN GRANT UNIVERSITY PROGRAM

[FINDINGS AND PURPOSE

[Sec. 1101. (a) The Congress finds and declares—

[(1) that there exists within the Nation's urban universities an underutilized reservoir of skills, talents, and knowledge applicable toward the amelioration of the multitude of problems that face the Nation's urban centers;

[(2) that the skills, talents, and knowledge of urban universities must be applied in a systematic and sustained manner to make a significant contribution toward the solution of these problems;

[(3) that the application of the skills, talents, and knowledge of urban universities is hindered by the limited funds available to sustain their commitment; and

[(4) that it is the policy of the United States to encourage and facilitate the application of the skills, talents, and knowledge of urban universities toward serving the needs of urban centers of the Nation.

[(b) The Secretary shall carry out programs in accordance with the provisions of this title, for the purpose of aiding urban universities to help find answers to urban problems, and aiding such universities to make their resources more readily and effectively available to the urban communities in which they are located.

[APPROPRIATIONS AUTHORIZED

[SEC. 1102. (a) For the purpose of carrying out the provisions of this title there is authorized to be appropriated $15,000,000 for fiscal year 1981, $25,000,000 for fiscal year 1982, $35,000,000 for fiscal year 1983, $45,000,000 for fiscal year 1984, and $55,000,000 for fiscal year 1985.

[(b) In the event of a multiple-year grant to any urban university under this title, the Secretary shall make funds available for such grant from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

[PROJECT ASSISTANCE

[SEC. 1103. (a)(1) The Secretary shall make grants to urban universities to pay the Federal share of the cost of carrying out projects consistent with the purposes of this title.

[(2) The Secretary shall give priority to applications containing cooperative arrangements between urban universities within an urban area.

[(b) An application submitted under this section shall contain provisions designed to show that the chief executive of the local agency or agencies of general government within whose jurisdiction fall the need or needs to be addressed by the project or projects described has been afforded a reasonable opportunity to review and comment upon the proposed project or projects. In making grants under this title, the Secretary shall consider the degree to which there is evidence in the application of (1) the participation of such local agency or agencies of general government and of the community in the development of the project or projects for which assistance is requested under this section; (2) local government and community participation in the implementation of the proposed project or projects; and (3) a commitment by such local agency or agencies of general government to pay the portion of the non-Federal share of the cost of such project or projects required by subsection (d) of this section. Not more than one-half of such non-Federal share may be in the form of services, supplies, or equipment.

[(c) The Secretary may request the advice of any Federal agency the Secretary considers appropriate before approving an application for project assistance under this section.

[(d) Each grant under this section shall be 90 per centum of the cost of the project for which assistance is granted.

[(e) An institution of higher education which receives a grant under this section shall be designated by the Secretary as an "urban grant university". The Secretary shall annually publish a list of the institutions of higher education which have been so designated.

[LIMITATION

[SEC. 1104. (a) The total amount of payments in any fiscal year under section 1103 to institutions within any one State shall not exceed 15 per centum of the total amount paid.

[(b) In allocating assistance under section 1103 of this title, the Secretary shall endeavor to achieve broad and equitable geographical distribution throughout the Nation.

[DEFINITIONS

[SEC. 1105. As used in this title—

[(1) "urban area" means a standard metropolitan statistical area having a population of not less than five hundred thousand persons; or, in any State which has no standard metropolitan statistical area within its borders which has such a population, the entity of the State having an agreement under section 1203 may, or if no such entity has an agreement, the Secretary shall designate one urban area for the purposes of this part;

[(2) "urban university" means an institution of higher education which (A) is located in an urban area, (B) draws a substantial portion of its undergraduate students from the urban area in which it is located or contiguous urban areas, (C) carries out programs to make postsecondary education opportunities more accessible to residents of such urban area or contiguous areas, (D) has the present capacity to provide resources responsible to the needs and priorities of such urban area and contiguous areas, (E) offers a range of professional or graduate programs sufficient to sustain its capacity to provide such resources, and (F) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and its people;

[(3) for the purposes of paragraphs (2) and (4) of this section, "institution of higher education" includes any combination of such institutions, any one of which meets all the qualifications of paragraph (2); and

[(4) "resources" are programs of institutions of higher education including specialized training, research services, and technical assistance responsible to the needs and priorities of the urban area and contiguous areas.]

TITLE XII—GENERAL PROVISIONS

DEFINITIONS

SEC. 1201. As used in this Act—

(a) The term "institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, (A) is an institution with respect to which the Secretary has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of clauses (1), (2), (4), and (5). Such term also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in clause (1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution. For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(b) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(c) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(d) The term "secondary school" means a school which provides secondary education as determine under State law except that it does not include any education provided beyond grade 12.

(e) The term "Secretary" means the Secretary of Education.

(g) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(h) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the

State supervision of public elementary and secondary school, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(i) The term "elementary school" means a school which provides elementary education including education below grade 1, as determined under State law.

(j) The term "combination of institutions of higher education" means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective, or a public or private nonprofit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on their behalf.

(k) The term "gifted and talented children" means, in accordance with objective criteria prescribed by the Secretary, children who have outstanding intellectual ability or creative talent.

(l) The term "school or department of divinity" means an institution or a department or a branch of an institution the program of instruction of which is designed for the education of students (A) to prepare them to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation), or (B) to prepare them to teach theological subjects.

(m) The term "Department" means the Department of Education.

ANTIDISCRIMINATION

SEC. 1202. Institutions of higher education receiving Federal financial assistance may not use such financial assistance whether directly or indirectly to undertake any study or project or fulfill the terms of any contract containing an express or implied provision that any person or persons of a particular race, religion, sex, or national origin be barred from performing such study, project, or contract, except no institution shall be barred from performing such study, project, or contract, except no institution shall be barred from conducting objective studies or projects concerning the nature, effects, or prevention of discrimination, or have its curriculum restricted on the subject of discrimination, against any such person.

FEDERAL-STATE RELATIONSHIPS; STATE AGREEMENTS

SEC. 1203. (a) Any State which desires to receive assistance under an applicable program, as described in subsection (f), shall enter into an agreement with the Secretary pursuant to subsection (b) setting forth the terms and conditions for the relationship between the Federal Government and that State for the purposes set forth in the applicable programs.

(b) Such agreement shall consist of assurances by the State, including a description of the means to be used by the State to fulfill the assurances, that—

(1) the State will provide for such methods of administration as are necessary for the proper and efficient administration of any program in keeping with the purposes of the applicable programs described in subsection (f);

(2) the State will provide such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State under any title of this Act;

(3) the State will follow policies and practices of administration that will ensure that non-Federal funds will not be supplanted by Federal funds, and that equitable and appropriate criteria will be used in evaluation of applications or proposals for grants or contracts under any such applicable program; and

(4) the State has a comprehensive planning or policy formulation process which—

(A) considers the relation between State administration of any such applicable program, and administration of similar State programs or processes;

(B) encourages State policies designed to consider effects on declining enrollments on all sectors of postsecondary education in the State;

(C) considers the postsecondary education needs of unserved and underserved individuals within the State, including individuals beyond the traditional college age;

(D) considers the resources of institutions, organizations, or agencies (both public and private) within the State capable of providing postsecondary educational opportunities in the State; and

(E) provides for direct, equitable and active participation in the comprehensive planning or policy formulation process or processes of representatives of institutions of higher education (including community colleges, proprietary institutions, and independent colleges and universities), students, other providers of postsecondary education services, and the general public in the State.

Participation under subclause (E) shall, consistent with State law, be achieved through membership on State planning commissions, State advisory councils, or other State entities established by the State to conduct federally assisted comprehensive planning or policy formulation.

(c) The information and assurances provided by a State in accordance with paragraphs (1), (2), and (3) of subsection (b), and regulations issued by the Secretary related directly to such assurances, shall be satisfactory for the purposes of, and shall be considered in lieu of, any comparable requirements for information and assurances in any applicable program described in subsection (f).

(d)(1) An agreement of a State shall remain in effect subject to modification as changes in information or circumstances require.

(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing has been given to the State, finds that there is a failure to comply substantially with the assurances required in paragraph (1), (2), or (3) of subsection (b), the Secretary shall notify the State that it is no longer eligible to participate in any applicable program described in subsection (f) until the Secretary is satisfied that there is no longer any such failure to comply.

(e)(1) For the purpose of this section, the selection of the State entity or entities authorized to act on behalf of the State for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the Federal Government.

(2)(A) Nothing in this section shall be construed to authorize the Secretary to require any State to adopt, as a condition for entering into an agreement, or for participation in an applicable program as defined in subsection (f), a specific State organizational structure for achieving participation in the planning, or administration of programs, or for statewide planning, coordination, governing, regulating, or administering of postsecondary education agencies, institutions, or programs in the State.

(B) Nothing in this section shall be construed as a limitation on the authority of any State to adopt a State organizational structure for postsecondary education agencies, institutions, or programs which is appropriate to the needs, traditions, and circumstances of that State, or as a limitation on the authority of a State entering into an agreement pursuant to this section to modify the State organizational structure at any time subsequent to entering into such an agreement.

(f) For the purposes of this section an "applicable program" is defined as—

(1) title I;
(2) subpart 3 of part A of title IV; and
(3) part A of title VII.

TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE

SEC. 1204. (a) The Secretary is authorized to provide such modifications of any programs under this Act as the Secretary deems necessary in order to adapt such programs to the needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands. Such program modifications may include the consolidation of grants for any single program on a regional or interterritorial basis. Such program modifications shall be established in cooperation with the governments of such territories and shall be governed by a memorandum of understanding between such governments and the Department of Education.

(b) In conjunction with the development of program modifications under subsection (a), the Secretary shall, within eighteen months after the date of enactment of this section, conduct an analysis of the unique educational needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, and report to the Congress on the results of such analysis. Such report shall include recommendations of the Secretary with respect to the most appropriate form of Federal postsecondary education assistance for such territories, an evaluation of the effectiveness of the authority contained in subsection (a), and whether such authority should be extended or modified.

(c) Pending legislative implementation of the recommendations submitted by the Secretary under subsection (b), there are authorized to be appropriated $2,000,000 for each fiscal year ending prior to October 1, [1985] *1991* to support the cost of providing postsecondary education programs on Guam for nonresident students from the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa. Such sums shall be allocated by the Secretary among the educational institutions on Guam providing such programs on the basis of the number of students enrolled from the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa. Sums authorized under this subsection shall remain available until appropriated and sums appropriated under this subsection shall remain available until expended.

NATIONAL ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

SEC. 1205. (a) There is established in the Department of Education a National Advisory Committee on Accreditation and Institutional Eligibility which shall be composed of 15 members appointed by the Secretary from among individuals knowledgeable concerning education, and including persons who are (1) representative of institutions, (2) representative of students and youth, (3) representative of professional associations, (4) representative of State educational agencies, and (5) representative of the general public. The Chairman of the Committee shall be appointed by the Secretary.

(b) The term of office of each member of the Committee shall be three years, except that—

(1) the members first appointed to the Committee shall serve as designated by the Secretary, five for a term of one year, five for a term of two years, and five for a term of three years, and

(2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of that term.

(c) The Committee shall, with respect to all matters pertaining to institutional eligibility—

(1) advise the Secretary with regard to the responsibility to publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authority as to the quality of training offered, including advising the Secretary with respect to the criteria and procedures for carrying out such responsibility;

(2) advise the Secretary with regard to the responsibility to designate State agencies as reliable authorities on the quality of public postsecondary vocational education or training;

(3) develop and recommend to the Secretary standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies, in order to establish the eligibility of such institutions on an interim basis for participation in federally funded programs; and

(4) carry out such other advisory functions relating to accreditation and institutional eligibility as may be assigned by the Secretary.

(d) The Committee shall meet not less than twice each year at the call of the Chairman. The date of, and agenda for, each meeting of the Committee shall be submitted in advance to the Secretary for approval. A representative of the Secretary shall be present at all meetings of the Committee.

(e) The Committee shall, not later than November 30 of each year, make an annual report through the Secretary to the Congress. The annual report shall contain a list of the members of the Committee and their addresses, a list of the Committee's functions, a list of dates and places of each meeting during the preceding fiscal year, and a summary of the activities, findings, and recommendations made by the Committee during the preceding fiscal year.

(f) Subject to section 448(b) of the General Education Provisions Act, the Committee shall continue to exist until September 30, [1985.] *1991.*

COMMISSION TO STUDY POSTSECONDARY INSTITUTIONAL AND PROGRAMMATIC RECOGNITION PROCESS

SEC. 1206. (a) There is established in the legislative branch a Joint Study Commission on Postsecondary Institutional Recognition (hereafter in this section referred to as the "Commission").

(b) The Commission shall be composed of 5 members appointed jointly by the President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader, and by the Speaker of the House of Representatives, upon the recommendation of the Majority Leader and the Minority Leader.

(c)(1) Members of the Commission shall be appointed, on the basis of their integrity, impartiality, and good judgment, from among individuals who, as a result of their training, experience, and attainment, are widely recognized by professionals in the fields of education and governmental administration as experts in those fields.

(2) Members of the Commission and staff of the Commisson may not, at the time of their appointment, be serving as either employees or officers of any accrediting agency or an organization of accrediting agencies, currently serving as administrators of accredited institutions, or be current or past members of the Advisory Committee on Accreditation and Institutional Eligibility of the Department.

(3) Vacancies in the membership of the Commission shall not affect the power of the remaining members to perform the duties of the Commission and shall be filled in the same manner in which the original appointment was made.

(4) Each member of the Commission not otherwise employed by the United States Government shall receive the daily equivalent of the annual basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which such member is actually engaged in the performance of the duties of the Commission. Each member of the Commission shall be allowed travel expenses in the same manner as any individual employed intermittently by the Federal Government is allowed travel expenses under section 5703 of title 5, United States Code.

(d)(1) The Commission shall conduct a thorough study of the institutional and programmatic recognition process used by the Department of Education in determining institutional or programmatic eligibility for student participation in Federal student assistance

programs under this Act with attention being given to the various types of public and private postsecondary institutions and programs.

(2) The study shall address, analyze, and report specifically on—

(A) the comprehensiveness of the standards and criteria used by existing accreditation agencies;

(B) the reliability and validity of the institutional and programmatic review processes used by the existing accreditation agencies;

(C) the adequacy of the current accreditation methodology and system;

(D) alternative structures, standards, critiera, and processes that might be used in accrediting institutions and programs;

(E) the indicators of educational quality that might be incorporated into the accreditation process;

(F) the educational outcome measurements that might be used in the accreditation process;

(G) the indicators of institutional and programmatic quality that should be provided to applicants and students; and

(H) alternative approaches that might be used by the Secretary for institutional and programmatic in Federal student assistance programs,

as each factor bears on eligibility for participation in Federal student assistance programs.

(e) The Commission shall adopt procedures allowing any interested party to submit information with respect to the recognition process, including critiques of current accrediting agency recognition procedures, accreditation procedures, possible alternative procedures, and proposed changes in criteria for recognition of individual accrediting agencies.

(f) The Commission shall prepare a narrative and statistical report consisting of—

(1) an overview description of the voluntary accrediting process used for postsecondary education in the United States; and

(2) a brief description of each accrediting agency recognized by the Department.

The report shall include at least a statement of the agency's purpose and a description of the organizational and governance structure of the agency, the agency's accreditation and visitation procedures, employers of members of the accrediting agency's governing body, the agency's sources of financial support, and a ten-year record of the number of members, number of candidates for accreditation, number of members voluntarily withdrawn after membership, number of applications withdrawn before membership, number of members dropped, and number of applicants denied accreditation. The report shall include the types of information shared among the various accrediting agencies, the degree of duplication among accrediting agencies in the current system, and an analysis of reporting complaints by the agency and its member institutions and programs.

(g)(1)(A) By agreement between the President pro tempore of the Senate and the Speaker of the House of Representatives, the Commission is authorized to secure on a reimbursable basis, office space,

clerical personnel, travel expenses, and such supplies and equipment as may be necessary for the Commission to carry out the study.

(B) Subject to such limitations as the President pro tempore of the Senate and the Speaker of the House of Representatives may jointly prescribe, the Commission may appoint such personnel as the Commission deems necessary and fix the compensation at an annual rate that does not exceed the rate of basic pay then payable for GS–18 of the General Schedule under section 5332 of title 5, United States Code, and may procure by contract the temporary and intermittent services of clerical personnel and experts or consultants, or organizations thereof.

(2) In conducting the study authorized by this section, the Commission is authorized to—

(A) seek such assistance and support as may be required to conduct the study from appropriate Federal agencies;

(B) arrange for the detail of staff personnel from other Federal agencies;

(C) enter into contracts and make other arrangements, as may be necessary for the conduct of the study;

(D) convene such technical groups as deemed necessary to secure information about the existing recognition process; and

(E) provide transportation and subsistence for persons serving without compensation.

(3) Upon request by the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist in the conduct of the study.

(h) The Commission shall submit a report of the findings and recommendations of the study required by this section to the Postsecondary Education Subcommittee of the Education and Labor Committees of the House of Representatives and the Subcommittee on Education, Arts, and Humanities of the Labor and Human Resources Committee of the Senate not later than nine months after funds are appropriated and made available for this study.

(i) There are authorized to be appropriated $1,000,000 to carry out the study authorized by this section.

DISCLOSURE OF FOREIGN GIFTS

SEC. 1207. (a) Whenever any institution receives a gift from, or enters into a contract with, a foreign source, the value of which is $100,000 or more, considered alone or in combination with all other gifts from, or contracts with, that foreign source within a fiscal year, the institution shall within 90 days of the receipt of such gift or the entrance into such contract, file a disclosure report with the Secretary.

(b) Each report to the Secretary required by this Act shall disclose—

(1) the name, nationality, and country of residence of the foreign source;

(2) the amount and date of the gift or contract;

(3) the full details of any conditions, restrictions, requirements, reserved powers, or matching provisions of the gift or contract including its purpose or purposes; and

(4) the name of any person whom the gift or contract is explicitly intended to benefit.

(c)(1) Notwithstanding the provisions of subsection (b), if the foreign source is a natural person and no gift or contract as to which a disclosure report is required by this Act contains any conditions, restrictions, requirements, reserved powers, or matching provisions, other than that the gift or contract is given or entered into for the benefit of the institution as a whole, the disclosure report required to disclose need not contain the name of the foreign source.

(2) Notwithstanding the provision of subsection (a), if a gift is given solely for the benefit of the institution as a whole and contains no conditions, restrictions, requirements, reserve powers, or matching provisions, and has a value of less than $250,000, a disclosure report need not be filed with the Secretary.

(3) Notwithstanding the provision of subsection (a), if an institution described under subsection (a) is within a State which has enacted requirements for public disclosure of conditions of contracts received from, or gifts entered into with, foreign sources, that are substantially similar to the requirements of subsection (a), a copy of the disclosure report filed with the State under subsection (a) shall be filed with Secretary. The State in which the institution is located shall provide to the Secretary such assurances as the Secretary may require to establish that the institution has met the requirements for public disclosure under State law.

(4) Notwithstanding the provision of subsection (a), if an institution receives a gift from, or enters into a contract with, a foreign source, where any other department, agency, or bureau of the executive branch requires a report containing requirements substantially similar to those required under this Act, a disclosure report need not be filed with the Secretary.

(d) All disclosure reports required by this Act shall be public records open to inspection and copying during business hours.

(e)(1) Whenever it appears that an institution has failed to comply with the requirements of this Act, including any rule or regulation promulgated thereunder, a civil action may be brought in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, to request such court to compel compliance with the requirement of the Act.

(2) For knowing or willful failure to comply with the requirements of this Act, including any rule or regulation promulgated thereunder, an institution shall pay to the Treasury of the United States the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement.

(f) The Secretary may promulgate regulations to carry out the ministerial duties imposed on the Secretary by this Act.

(g) For purposes of this section—

(1) the term "contract" means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties;

(2) the term "foreign source" means—

(A) a foreign government, including an agency of a foreign government;

(B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;

(C) a nonresident alien; and

(D) an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source;

(3) the term "gift" means any endowment, gift, grant, contract, award, present, or property of any kind which contains conditions or restrictions regarding (A) the employment or termination of faculty; (B) the control of curricula or research; or (C) the selection or admission of students; and

(4) the term "institution" means any institution, public or private, or, of a multicampus institution, any single campus of such institution, in any State which—

(A) is legally authorized within such State to provide a program of education beyond high school;

(B) provides a program for which it awards a bachelor's degree (or provides not less than a two-year program which is acceptable for full credit toward such a degree) or more advanced degrees; and

(C) is accredited by a nationally recognized accrediting agency or association and to which institution Federal financial assistance is extended (directly or indirectly through another entity or perosn), or which institution receives support from the extension of Federal financial assistance to any of its subunits.

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OTHER ACTS AFFECTED BY THIS LEGISLATION

GENERAL EDUCATION PROVISIONS ACT

SHORT TITLE; APPLICABILITY; DEFINITIONS; APPROPRIATIONS

SEC. 400. (a) This title may be cited as the "General Education Provisions Act."

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PART A—EDUCATION DIVISION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

THE EDUCATION DIVISION

SEC. 401–404. * * *

[NATIONAL INSTITUTE OF EDUCATION

[SEC. 405. (a)(1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, age, handicap, national origin, or social class. Although the American educational system has pursued this objective, it has not yet attained that objective. Inequalities of opportunity to receive high quality education remain pronounced. To achieve quality will require far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

[(2) The Congress further declares it to be the policy of the United States to—

[(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

[(ii) advance the practice of education, as an art, science, and profession;

[(iii) strengthen the scientific and technological foundations of education; and

[(iv) build an effective educational research and development system.

[(b)(1) In order to carry out the policy set forth in subsection (a), there is established the National Institute of Education (hereinafter referred to as the "Institute") which shall consist of a National Council on Educational Research (referred to in this section as the "Council") and a Director of the Institute (hereinafter referred to as the "Director"). The Institute shall have only such authority as may be vested therein by this section.

[(2) The Institute shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Institute on the following priority research and development needs—

[(A) improvement in student achievement in the basic educational skills, including reading and mathematics;

[(B) overcoming problems of finance, productivity, and management in educational institutions;

[(C) improving the ability of schools to meet their responsibilities to provide equal educational opportunities for students of limited English-speaking ability, women, and students who are socially, economically, or educationally disadvantaged;

[(D) preparation of youths and adults for entering and progressing in careers;

[(E) overcoming the special problems of the nontraditional student, including the older student (with special consideration for students over age 45) and the part-time student, and the institution which the student attends;

[(F) encouraging the study of languages and cultures and addressing both national and international education concerns; and

[(G) improved dissemination of the results of, and knowledge gained from, educational research and development, including assistance to educational agencies and institutions in the application of such results and knowledge.

In carrying out this paragraph, the Institute shall give attention to the needs of early adolescents and the schools which serve them.

[(c)(1) The Council shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate, the Director, and such other ex officio members who are officers of the United States as the President may designate. A majority of the members of the Council (including ex officio members) shall constitute a quorum. The Chairman of the Council shall be designated from among its appointed members by the President. Ex officio members shall not have a vote on the Council. The members of the Council shall be appointed so that the Council shall be broadly representative of the general public; of the education professions, including practitioners and researchers; and of the various fields of education, including preschool, elementary and secondary, postsecondary, continuing, vocational, special, and compensatory education.

[(2) The term of office of the members of the Council (other than ex officio members) shall be three years, except that (A) the members first taking office shall serve as designated by the President, five for terms of three years, five for terms of two years, and five for terms of one year, (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and (C) the term of office of each member shall expire on September 30 of the year in which such term would otherwise expire, unless a successor to such member has not been appointed and confirmed by the Senate by such date, in which case such member shall continue to serve until a successor has been appointed and confirmed. Any appointed member who has been a member of the Council for six consecutive years shall thereafter be ineligible for appointment to the Council during the two-year period following the expiration of such sixth year.

[(3) The Council shall—

[(A) establish general policies for, and review the conduct of, the Institute;

[(B) advise the Assistant Secretary and the Director of the Institute on development of programs to be carried out by the Institute;

[(C) present to the Assistant Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of insuring the implementation of educational renewal and reform based upon the findings of educational research;

[(D) conduct such studies as may be necessary to fulfill its functions under this section;

[(E) prepare an annual report to the Assistant Secretary on the current status and needs of educational research in the United States;

[(F) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (i) which shall include such recommendations and comments as the Council may deem appropriate, and (ii) shall be submitted to the Congress not later than March 31 of each year; and

[(G) meet at the call of the Chairman, except that it shall meet (i) at least four times during each fiscal year, or (ii) whenever one-third of the members request in writing that a meeting be held.

The Director shall make available to the Council such information and assistance as may be necessary to enable the Council to carry out its functions. The Council may employ, without the approval of the Director, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, not to exceed seven technical and professional employees, as the Council deems necessary to carry out its functions.

[(d)(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and shall perform such duties and exercise such powers and authorities as the Council, subject to the general supervision of the Assistant Secretary, may prescribe. The Director shall be responsible to the Assistant Secretary and shall report to the Secretary through the Assistant Secretary and not to or through any other offices of the Department of Health, Education, and Welfare. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him.

[(2) There shall be a Deputy Director of the Institute (referred to in this section as the "Deputy Director") who shall be appointed by the President and shall serve at the pleasure of the President. The Deputy Director shall be compensated at the rate provided for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall act for the Director during the absence or disability of the Director and exercise such powers and authorities as the Director may prescribe. The position created by this paragraph shall be in addition to the number of positions placed in grade 18 of the General Schedule under section 5108 of title 5, United States Code.

[(e)(1) In order to carry out the objectives of the Institute, the Director is authorized, through the Institute, to conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research; collection, dissemination, or training through grant, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this subsection, the term "educational research" includes research (basic and applied), planning, surveys, evaluations, investigations, experiments, developments, and demonstrations in the field of education (including career education).

[(2) Funds appropriated pursuant to subsection (b) for any fiscal year may be expended on projects and activities to disseminate (A) information on the results of educational research and development; and (B) other educational information. Projects and activities funded under this paragraph may include cooperative and jointly funded arrangements for such dissemination utilizing individuals who may be designated as "Education Extension Agents." Employment opportunities at the local level which are generated and funded through projects and activities carried out under the preceding sentence of this paragraph shall be made available to residents of the area to be served, if any such residents are qualified for, and apply for, such employment.

[(3) The Director may establish and maintain research fellowships in the Institute, with such stipends and allowances, including travel and subsistence expenses, as the Director may deem necessary to procure the assistance of highly qualified research fellows from the United States and abroad.

[(4) Not less than 90 per centum of the funds appropriated pursuant to subsection (h) for any fiscal year shall be expended to carry out this section through grants or contracts with qualified public or private agencies and individuals.

[(5) The Director may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service and may compensate without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical or professional employees of the Institute as he deems necessary to accomplish its functions and also appoint and compensate without regard to such provisions not to exceed one-fifth of the number of full-time, regular technical or professional employees of the Institute.

[(f)(1) In carrying out the functions of the Institute under this section, the Director shall, in accordance with the provisions of this subsection, make grants to, and enter into contracts with—

[(A) regional educational laboratories established by public agencies or private nonprofit organizations; and

[(B) research and development centers established by institutions of higher education or by interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development.

[(2) No grants shall be made and no contract entered into under this subsection unless—

[(A) proposals for assistance under this subsection are solicited from regional educational laboratories and research and development centers by the Director;

[(B) proposals for such assistance are developed by the regional educational laboratories and the research and development centers in consultation with the Director;

[(C) proposals are submitted in an application, containing or accompanied by such information as is essential to carry out the provisions of this section, including assurances that the laboratory or center involved will—

[(i) be responsible for the conduct of the research and development activities;

[(ii) prepare a long-range plan relating to the conduct of such research and development activities;

[(iii) insure that information developed as a result of such research and development activities, including new educational methods, practices, techniques, and products, be disseminated;

[(iv) provide technical assistance to appropriate educational agencies and institutions; and

[(v) to the extent practicable, provide training for individuals, emphasizing training opportunities for women and members of minority groups, in the use of new educational methods, practices, techniques, and products developed in connection with such activities; and

[(D) the Director determines that the proposed activities will be consistent with the education research and development program and dissemination activities which are being conducted by the Institute.

[(3) No regional educational laboratory or research and development center receiving assistance under this subsection shall by reason of the receipt of such assistance be ineligible to receive any other assistance from the Institute authorized by law.

[(g)(1) There is established within the Institute a Federal Council on Educational Research and Development (hereinafter in this subsection referred to as the "Federal Council").

[(2) The Federal Council shall be composed of representatives of Federal agencies engaged in research and development relating to education, and shall include, but not be limited to, a representative designated by the Secretary of Defense, a representative designated by the Secretary of Labor, the Director of the National Institutes of Education, the Director of the National Institute of Health, the Director of the National Science Foundation, the Director of the Office of Child Development of the Department of Health, Education, and Welfare, and the Commissioner of Education.

[(3) The President shall designate the Director of the Institute to be the Chairman of the Federal Council.

[(4) The President shall appoint additional representatives of Federal agencies and may alter the membership of the Federal Council from time to time as he considers necessary to meet changes in Federal programs or in the organization of the executive branch of the Federal Government.

[(5) The Federal Council shall—

[(A) advise, and consult with, the Director of the Institute with respect to major problems arising in connection with carrying out the purposes of the Institute;

[(B) promote coordination between the programs and activities of the Institute and related programs and activities of other Federal agencies, including the joint support of activities to the extent such support is appropriate;

[(C) make an annual report to the Congress and the President on the status of educational research and development in the United States, including (i) a catalog of federally assisted programs in educational research and development; (ii) a report of the most significant findings of such research and development; and (iii) recommendations with respect to the manner in which such Federal research and development efforts may be improved; and

[(D) make recommendations to the Congress and the President with respect to effective means for the dissemination throughout the United States of information relating to educational research and development, and carry out an assessment of existing efforts used by Federal agencies for the dissemination of such information.

[(h)(1) In conducting educational research under subsection (e) which deals with specific education programs or the target populations of such programs, the Director shall consult with the appropriate administrators of such programs within appropriate Federal agencies.

[(2) The head of any Federal agency which conducts educational research or provides financial assistance for such research shall consult with the Director with respect to the design of programs of such research.

[(i) Where funds are advanced for a single project by more than one Federal agency for the purposes of this section, the National Institute of Education may act for all in administering the funds advanced.

[(j)(1) There are authorized to be appropriated to carry out the provisions of this section $120,000,000 for fiscal year 1981, $130,000,000 for fiscal year 1982, $145,000,000 for fiscal year 1983, $160,000,000 for fiscal year 1984, and $175,000,000 for fiscal year 1985.

[(2) Sums so appropriated shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for the purposes of this subsection unless expended.

[(k)(1) In addition to other responsibilities of the Institute under this section, the Institute shall carry out, by grant to or cooperative agreement (subject to the provisions of the Federal Grant and Cooperative Agreement Act of 1977) with a nonprofit education organization, a National Assessment of Educational Progress which shall have as a primary purpose the assessment of the performance of children and young adults in the basic skills of reading, mathematics, and communication. Such a National Assessment shall—

[(A) collect and report at least once every five years data assessing the performance of students at various age or grade levels in each of the areas of reading, writing, and mathematics;

[(B) report periodically data on changes in knowledge and skills of such students over a period of time;

[(C) conduct special assessments of other educational areas, as the need for additional national information arises;

[(D) provide technical assistance to State educational agencies and to local educational agencies on the use of National Assessment objectives, primarily pertaining to the basic skills of reading, mathematics, and communication, and on making comparisons of such assessments with the national profile and change data developed by the National Assessment; and

[(E) with respect to each State which voluntarily participates in accordance with paragraph (5), provide for a statement of information collected by the National Assessment for each such State.

[(2)(A) The education organization through which the Institute carries out the National Assessment shall be responsible for overall management of the National Assessment. Such organization shall delegate authority to design and supervise the conduct of the National Assessment to an Assessment Policy Committee established by such organization. The Assessment Policy Committee shall be composed of—

[(i) five members appointed by the education organization of whom two members shall be representatives of business and industry and three members shall be representatives of the general public, and

[(ii) twelve members appointed by the education organization from the categories of membership specified in subparagraph (B).

[(B) Members of the Assessment Policy Committee appointed in accordance with division (ii) of subparagraph (A) shall be—

[(i) one chief State school officer;
[(ii) two State legislators;
[(iii) two school district superintendents;
[(iv) one chairman of a State board of education;
[(v) one chairman of a local school board;
[(vi) one Governor of a State; and
[(vii) four classroom teachers.

[(C) The Director of the Institute shall serve as an ex officio member of the Assessment Policy Committee. The Director shall also appoint a member of the National Council on Education Research to serve as a nonvoting member of the Assessment Policy Committee.

[(D) Members appointed in accordance with divisions (i) and (ii) of subparagraph (A) shall be appointed for terms of three years, except that (i) in the case of members appointed for fiscal year 1979, one third of the membership shall be appointed for terms of one year each and one third shall be appointed for terms of two years each, and (ii) appointments to fill vacancies shall be for such terms as remain unexpired. No member shall be appointed to serve more than two consecutive terms.

[(3) The Assessment Policy Committee established by paragraph (2) shall be responsible for the design of the National Assessment, including the selection of the learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, the form and content of the reporting and dissemination of assessment results, and studies to evaluate and improve the form and utilization of the National Assessment. The appropriateness of all cognitive, background, and attitude items developed as part of the National Assessment shall be the responsibility of the Assessment Policy Committee. Such items shall be subject to review by the Department of Education and the Office of Management and Budget for a single period of not more than 60 days.

[(4) Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, subject matter specialists, local school administrators, parents, and concerned members of the general public. All items selected for use in the assessment shall be reviewed to exclude items which might reflect racial, sex, cultural, or regional bias.

[(5) Participation in the National Assessment by State and local educational agencies selected as part of a sample of such agencies shall be voluntary.

[(6) The Director of the Institute shall provide for a review of the National Assessment at least once every three years. This review shall provide an opportunity for public comment on the conduct and usefulness of National Assessment and shall result in a report to the Congress and to the Nation on the findings and recommendations, if any, stemming from the review.

[(7) There are authorized to be appropriated $8,000,000 for fiscal year 1985, and $10,800,000 for each succeeding fiscal year ending prior to October 1, 1989, to carry out the provisions of this subsection.

[(l) For purposes of this section, the terms "United States" and "State" include the District of Columbia and Puerto Rico.]

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

Sec. 405. (a)(1) The Congress declares it to be the policy of the United States to provide to every individual an equal opportunity to receive an education of high quality regardless of race, color, religion, sex, age, handicap, national origin, or social class. Although the American educational system has pursued this objective, it has not attained the objective. To achieve the goal of quality education requires the continued pursuit of knowledge about education through research, improvement activities, data collection, and information dissemination. While the direction of American education remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) The Congress further declares it to be the policy of the United States to—

(A) promote the quality and equity of American education;

(B) advance the practice of education as an art, science, and profession;

(C) support educational research of the highest quality;

(D) strengthen the educational research and development system;

(E) improve educational techniques and training;

(F) assess the national progress of this Nation's schools and education institutions, particularly special populations; and

(G) collect, analyze, and disseminate statistics and other data related to education in the United States and other nations.

(3) For purposes of this section—

(A) the term "Assistant Secretary" means the Assistant Secretary for Educational Research and Improvement established by section 202 of the Department of Education Organization Act;

(B) the term "Council" means the National Advisory Council on Educational Research and Improvement established by subsection (c);

(C) the term "educational research" includes basic and applied research, development, planning, surveys, assessments,

evaluations, investigations, experiments, and demonstrations in the field of education and other fields relating to education;

(D) the term "Office" means the Office of Educational Research and Improvement established by section 209 of the Department of Education Organization Act; and

(E) the terms "United States" and "State" include the District of Columbia and the Commonwealth of Puerto Rico.

(b)(1) It shall be the purpose of the Office to carry out the policies set forth in subsection (a) of this section. The Office shall be administered by the Assistant Secretary and shall include—

(A) the National Advisory Council on Educational Research and Improvement established in subsection (c);

(B) the Center for Education Statistics established by section 406; and

(C) such other units as the Secretary deems appropriate to carry out the purposes of the Office.

(2) The Office shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Office on the priority research and development needs described in paragraph (3).

(3) The needs to which paragraph (2) apply are—

(A) improving student achievement;

(B) improving the ability of schools to meet their responsibilities to provide equal educational opportunities for all students, including those with limited English-speaking ability, women, older students, part-time students, minority students, gifted and talented students, handicapped students, and students who are socially, economically, or educationally disadvantaged;

(C) collecting, analyzing, and disseminating statistics and other data related to education in the United States and other nations;

(D) improving the dissemination and application of knowledge gained from educational research and data gathering;

(E) encouraging the study of the sciences, the arts, and the humanities, including foreign languages and cultures;

(F) improving the data base of information on special populations and their educational status;

(G) conducting research on adult educational achievement, particularly literacy and illiteracy as it affects employment, crime, health, and human welfare;

(H) conducting research on postsecondary opportunities, especially access for minorities and women; and

(I) conducting research on education professionals, especially at the elementary and secondary levels including issues of recruitment, training, retention, and compensation.

(c)(1)(A) The Council shall consist of fifteen members, excluding ex officio members, appointed by the Secretary. The Assistant Secretary, the Assistant Secretary of Defense (Manpower), the Assistant Secretary of Agriculture for Science and Education, the Assistant Secretary of Health and Human Services for Human Development Services, the Assistant Secretary of Labor for Employment and Training, the Director of the National Science Foundation, and the Chairman of the National Endowment for the Humanities shall serve as ex officio members.

(B) A majority of the members of the Council shall constitute a quorum. The Chairman of the Council shall be elected from among the Council's appointed members. Ex officio members shall not have a vote on the Council. The members of the Council shall be appointed so that the Council shall be broadly representative of the general public; of the education professions, including practitioners, policymakers, and researchers; and the various fields and levels of education.

(2) The term of office of the members of the Council (other than ex officio members) shall be three years. Any appointed member who has been a member of the Council for six consecutive years shall thereafter be ineligible for appointment to the Council during the two-year period following the expiration of the sixth year.

(3) The Council shall—

(A) advise the Secretary on the policies and programs carried out by the Office;

(B) review and comment on the policies and activities of the Office;

(C) conduct such activities as may be necessary to fulfill its functions under this subsection;

(D) prepare such reports to the Secretary on the activities of the Office as it deems appropriate; and

(E) submit, by not later than March 31 of each year, a report to the President and the Congress on all of the activities of the Office, and on education, educational research, and data gathering in general.

(d)(1) In order to carry out the objectives of the Office under this section, the Secretary within the limits of available resources shall—

(A) conduct educational research;

(B) collect, anlayze, and disseminate the findings of education research;

(C) train individuals in educational research;

(D) assist and foster such research, collection, dissemination, and training through grants, cooperative arrangements, and technical assistance;

(E) promote the coordination of educational research and research support within the Federal Government and otherwise assist and foster such research; and

(F) collect, anlayze, and disseminate statistics and other data related to education in the United States and other nations.

(2) The Secretary may carry out the activities in paragraph (1) directly, or through grants, contracts, and cooperative agreements with institutions of higher education, public agencies, private organizations and institutions, and individuals. When making awards under this subsection, the Secretary shall, to the fullest extent possible—

(A) solicit recommendations and advice regarding research priorities, opportunities, and strategies from qualified experts, such as education professionals and policymakers, personnel of the regional education laboratories and of the research and development centers supported under paragraph (3), and the Council, as well as parents and other members of the general public;

(B) employ suitable selection procedures utilizing the principles of peer review; and

(C) determine that the activities to be supported by the award will be conducted efficiently, are of high quality, and are consistent with the purposes and priorities of the Office.

(3)(A) In carrying out the functions of the Office, the Secretary shall, in accordance with the provisions of this subsection, support—

(i) regional educational laboratories established by public agencies or private nonprofit organizations to serve the needs of a specific region of the Nation under the guidance of a regionally representative governing board, the regional agendas of which shall, consistent with the priority research and development needs established by subsection (b) (2) and (3), be determined by the governing boards of such labs;

(ii) research and development centers that are established by institutions of higher education, public agencies, private nonprofit organizations, or by interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development;

(iii) meritorious unsolicited proposals for educational research and related activities that are authorized by this subsection; and

(iv) proposals that are specifically invited or requested by the Secretary, on a competitive basis, which meet objectives authorized by this subsection.

(B) Each application for assistance under clause (i) or (ii) of subparagraph (A) as a regional educational laboratory or a research and development center shall contain such information as the Secretary may reasonably require, including assurances that the applicant will—

(i) be responsible for the conduct of the research and development activities;

(ii) prepare a long-range plan relating to the conduct of such research and development activities;

(iii) ensure that information developed as a result of such research and development activities, including new educational methods, practices, techniques, and products, will be appropriately disseminated;

(iv) provide technical assistance to appropriate educational agencies and institutions; and

(v) to the extent practicable, provide training for individuals, emphasizing training opportunities for women and members of minority groups, in the use of new educational methods, practices, techniques, and products developed in connection with such activities.

(C) No regional educational laboratory or research and development center receiving assistance under this subsection shall, by reason of the receipt of that assistance, be ineligible to receive any other assistance from the Office authorized by law.

(4) The Secretary may, from funds appropriated under this section, establish and maintain research fellowships in the Office, for scholars, researchers, and statisticians engaged in the collection and dissemination of information about education and educational re-

search. Subject to regulations prescribed by the Secretary, the fellowships may include such stipends and allowance, including travel and subsistence expenses provided for under title 5, United States Code, as the Secretary deems appropriate.

(e)(1) In addition to the other responsibilities of the Office under this section, the Secretary, through the Office, shall carry out, by grant to or cooperative agreement with a nonprofit educational organization, a National Assessment of Educational Progress which shall have as a primary purpose the assessment of the performance of children and young adults in the basic skills of reading, mathematics, communication, and other subjects and skills. Such a National Assessment shall—

(A) collect and report at least once every five years data assessing the performance of students at various age or grade levels in each of the areas of reading, writing, and mathematics;

(B) report periodically data on changes in knowledge and skills of such students over a period of time;

(C) conduct special assessments of other educational areas, as the need for additional national information arises;

(D) include in assessment activities information on special groups of individuals;

(E) provide technical assistance to State educational agencies and to local educational agencies on the use of National Assessment objectives, primarily pertaining to—

(i) the basic skills of reading, mathematics, and communication, and

(ii) on making comparisons of such assessments with the national profile (including special population profiles) and change data developed by the National Assessment; and

(F) with respect to each State which voluntarily participates in accordance with paragraph (5), provide a statement of information collected by the National Assessment for each such State.

(2)(A) The educational organization through which the Office carries out the National Assessment shall be responsible for overall management of the National Assessment. Such organization shall delegate authority to design and supervise the conduct of the National Assessment to an Assistant Policy Committee, established with the advice of the Secretary. The Assessment Policy Committee shall be composed of—

(i) five members appointed by the educational organization of whom two members shall be representative of business and industry and three members shall be representative of the general public, and

(ii) fourteen members appointed by the educational organization from the categories of membership specified in subparagraph (B).

(B) Members of the Assessment Policy Committee appointed in accordance with clause (ii) of subparagraph (A) shall be—

(i) one chief State school officer;

(ii) two State legislators;

(iii) two school district superintendents;

(iv) one member of a State board of education;

(v) one member of a local school board;
(vi) one Governor of a State;
(vii) four classroom teachers;
(viii) one elementary school principal; and
(ix) one secondary school principal.

(C) The Assistant Secretary shall serve as an ex officio member of the Assessment Policy Committee. The Assistant Secretary shall also appoint a member of the Council to serve as a nonvoting member of the Assessment Policy Committee.

(D) Members appointed in accordance with clauses (i) and (ii) of subparagraph (A) shall be appointed for terms of three years on a staggered basis.

(3) The Assessment Policy Committee shall be responsible for the design of the National Assessment, including the selection of the learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, the form and content of the reporting and dissemination of assessment results, and studies to evaluate and improve the form and utilization of the National Assessment. The appropriateness of all cognitive, background, and attitude items developed as part of the National Assessment shall be the responsibility of the Assessment Policy Committee. Such items shall be subject to review by the Department of Education and the Office of Management and Budget for a single period of not more than sixty days.

(4) Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, subject matter specialists, local school administrators, parents, and members of the general public. All items selected for use in the assessment shall be reviewed to exclude items which might reflect racial, sex, cultural, or regional bias.

(5) Participation in the National Assessment by State and local educational agencies selected as part of a sample of such agencies shall be voluntary.

(6) The Secretary shall provide for a periodic review of the National Assessment. The review shall provide an opportunity for public comment on the conduct and usefulness of the National Assessment and shall result in a report to the Congress and to the Nation on the findings and recommendations of the review, if any. The Secretary shall consider the findings and recommendations in designing the competition to select the educational organization through which the Office carries out the National Assessment.

(f)(1)(A) There are authorized to be appropriated to carry out the provisions of this section (other than subsection (d)(3)(A)(i)) $53,231,000 for fiscal year 1987 and such sums as may be necessary for each of the succeeding fiscal years ending prior to October 1, 1991.

(B) There are authorized to be appropriated to carry out the provisions of subsection (d)(3)(A)(i) $19,000,000 for the fiscal year 1987 and such sums as may be necessary for each of the succeeding fiscal years ending prior to October 1, 1991.

(C) The Secretary may not enter into a contract for the purpose of regional educational laboratories under subsection (d)(3)(A)(i) for a period in excess of five years.

(2) Not less than 90 per centum of the funds appropriated pursuant to this subsection for any fiscal year shall be expended to carry out this section through grants, cooperative agreements, or contracts.

(3) When more than one Federal agency uses funds to support a single project under this section, the Office may act for all such agencies in administering such funds.

(g) In each fiscal year in which appropriated funds equal or exceed the amount of funds appropriated in fiscal year 1986 to carry out sections 405 and 406, the Secretary shall at least maintain the level of funding provided for the operations during fiscal year 1986 of the Center for Educational Statistics, the National Assessment of Educational Progress, and the Educational Resources Information Center for such fiscal year.

[NATIONAL CENTER FOR EDUCATION STATISTICS]

CENTER FOR EDUCATION STATISTICS

SEC. 406. (a) There is established, within the [Office of the Assistant Secretary, a National Center for Education Statistics (hereafter in this section referred to as the "Center").] *Office of Educational Research and Improvement, a Center for Education Statistics (hereafter in this section referred to as the "Center").* The Center shall be headed by [an Administrator] *a director* who shall be appointed by the Assistant Secretary in accordance with the provisions of title 5, United States Code, relating to appointments in the competitive service.

(b) The purpose of the Center shall be to collect and disseminate statistics and other data related to education in the United States and in other nations. The Center shall—

(1) collect, *analyze,* collate, and, from time to time, report full and complete statistics on the conditions of education in the United States;

(2) conduct and publish reports on specialized analyses of the meaning and significance of such statistics;

(3) assist State and local educational agencies, including State agencies responsible for postsecondary education, in improving and automating their statistical and data collection activities;

(4) review and report on educational activities in foreign countries; and

(5) conduct a continuing survey of institutions of higher education and local educational agencies to determine the demand for, and the availability of, qualified teachers and administrative personnel, especially in critical areas within education which are developing or are likely to develop, and assess the extent to which programs administered in the Education Division are helping to meet the needs identified as a result of such continuing survey.

(c)(1) There shall be an Advisory Council on Education Statistics which shall be composed of 7 members appointed by the Secretary and such ex officio members as are listed in subparagraph (2). Not more than 4 of the appointed members of the Council may be members of the same political party.

(2) The ex officio members of the Council shall be—

[(A) the Commissioner of Education,]

[(B)] *(A)* the [Director of the National Institute of Education,] *Assistant Secretary,*

[(C)] *(B)* the Director of the Census, and

[(D)] *(C)* the Commissioner of Labor Statistics.

[(3) Appointed members of the Council shall serve for terms of 3 years, as determined by the Secretary, except that in the case of initially appointed members of the Council, they shall serve for shorter terms to the extent necessary that the terms of office of not more than 3 members expire in the same calendar year.]

[(4)] *(3)* The Assistant Secretary shall serve as the non-voting presiding officer of the Council.

[(5)(A) The Council shall meet at the call of the presiding officer, except that it shall meet—

[(i) at least four times during each calendar year; and

[(ii) in addition, whenever three voting members request in writing that the presiding officer call a meeting.

[(B) Six members of the Council shall constitute a quorum of the Council.]

[(6)] *(4)* The provisions of section 448(b) of part D of this title shall not apply to the Council established under this subsection.

[(7)] *(5)* The Council shall review general policies for the operation of the Center and shall be responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

[(d)(1) The Assistant Secretary shall, not later than June 1 of each year, submit to the Congress an annual report which—

[(A) contains a description of the activities of the Center during the then current fiscal year and a projection of its activities during the succeeding fiscal year;

[(B) sets forth estimates of the cost of the projected activities for such succeeding fiscal year;

[(C) includes a statistical report on the condition of education in the United States during the two preceding fiscal years and a projection, for the three succeeding fiscal years, of estimated statistics related to education in the United States; and

[(D) clearly sets forth areas of critical need for additional qualified education personnel in local education agencies and, after discussion and review by the Advisory Council on Education Statistics, identifies priorities within projected areas of need, and includes recommendations of the Council with respect to the most effective manner in which the Nation and the Federal Government may address such needs.]

(d)(1) The Secretary shall not later than June 1 of each year submit to the Congress an annual report which—

(A) includes a statistical report on the condition of education in the United States during the two preceding fiscal years and a projection, for the three succeeding fiscal years, of estimated statistics related to education in the United States; and

(B) clearly sets forth areas of critical need for additional qualified education personnel in local educational agencies and, after discussion and review by the Advisory Council on Education Statistics, identifies priorities within the areas of

need and includes recommendations of the Council with respect to the most effective manner in which the Nation and the Federal Government may address such needs.

(2) The Center shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this section. This subparagraph shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies receiving grants from or having contracts with the Federal Government.

[(e) In order to carry out the objectives of the Center, the Assistant Secretary is authorized, either directly or by grant or contract, to carry out the purposes set forth in subsection (b), and for that purpose the Assistant Secretary is authorized to make grants to, and contracts with public and private institutions, agencies, organizations and individuals.]

[(f)]*(e)*(1)[(A)] The Center is authorized to furnish transcripts or copies of tables and other statistical records of the Office of Education, the Assistant Secretary, and the National Institute of Education to, and to make special statistical compilations and surveys for, State or local officials, public and private organizations, or individuals. The Center shall furnish such special statistical compilations and surveys as the Committees on Labor and Human Resources and on Appropriations of the Senate and the Committees on Education and Labor and on Appropriations of the House of Representatives may request. Such statistical compilations and surveys, other than those carried out pursuant to the preceding sentence, shall be made subject to the payment of the actual or estimated cost of such work. In the case of nonprofit organizations or agencies, the [Assistant Secretary] *Secretary* may engage in joint statistical projects, the cost of which shall be shared equitably as determined by the [Assistant Secretary:] *Secretary: Provided,* That the purposes of such projects are otherwise authorized by law.

[(B) All funds received in payment for work or services enumerated under subparagraph (A) shall be deposited in a separate account which may be used to pay directly the costs of such work or services, to repay appropriations which initially bore all or part of such costs, or to refund excess sums when necessary.]

(2)(A) The Center shall participate with other Federal agencies having a need for educational data in forming a consortium for the purpose of providing direct joint access with such agencies to all educational data received by the Center through automated data processing. The Library of Congress, General Accounting Office, and the Committees on Labor and Human Resources and Appropriations of the Senate and the Committees on Education and Labor and Appropriations of the House of Representatives shall, for the purposes of this subparagraph, be considered Federal agencies.

(B) The Center shall, in accordance with regulations published for the purpose of this paragraph, provide all interested parties, including public and private agencies and individuals, direct access to data collected by the Center for purposes of research and acquiring statistical information.

[(3) The Commissioner and the National Institute of Education are directed to cooperate with the Center and make such records and data available to the Center as may be necessary to enable the Center to carry out its functions under this subsection.]

[(g)(1) The amount available for salaries and expenses of the Center shall not exceed $5,000,000 for the fiscal year ending June 30, 1975, $10,000,000 for the fiscal year ending June 30, 1976, and $14,000,000 for each of the fiscal years ending prior to October 1, 1989.

[(2) The amount available for grants and contracts by the Assistant Secretary under subsection (e) shall not exceed $10,000,000 for fiscal year 1985, $12,000,000 for fiscal year 1986, $14,000,000 for fiscal year 1987, $16,000,000 for fiscal year 1988, and $18,000,000 for fiscal year 1989.

[(3) Sums appropriated for activities and expenses of the Center which are not limited by paragraph (2) of this subsection shall be appropriated apart from appropriations which are so limited, as separate line items.]

[(h)(1) In addition to its other responsibilities, the National Center for Education Statistics shall, in consultation with the Department of Education, collect uniform data from the States on financing of elementary and secondary education. Each State receiving funds under the Elementary and Secondary Education Act of 1965 shall cooperate with the National Center in this effort.]

(f)(i) In addition to its other responsibilities, the Center shall collect uniform data from the States on the financing of elementary and secondary education. Each State receiving funds under the Education Consolidation and Improvement Act of 1981 shall cooperate with the Center in this effort.

(2)(A) The National Center shall, in consultation with the Department of Education, publish by no later than September 30, 1979, and by no later than September 30 of each second fiscal year thereafter, a composite profile of each State showing the degree to which each has achieved equalization of resources for elementary and secondary education among the school districts within the State. A summary of these profiles shall show this equalization among the States.

(B) In compiling the profiles required by this paragraph, the National Center shall list the degree of equalization both within and among the States according to the following standards:

(i) the disparity in expenditures among school districts;

(ii) the disparity from wealth neutrality; and

(iii) such other measures as the National Center considers appropriate, including a consideration of price differentials and pupil-teacher ratios.

(3) There are authorized to be appropriated such sums as may be necessary for any fiscal year to assist the National Center in carrying out its responsibilities under this subsection.

[(i)]*(g)* For purposes of this section, the terms "United States" and "State" include the District of Columbia and Puerto Rico.

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DEPARTMENT OF EDUCATION ORGANIZATION ACT

(PUBLIC LAW 96-88)

SHORT TITLE: TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Department of Education Organization Act".

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OFFICE OF POSTSECONDARY EDUCATION

SEC. 205(*a*). There shall be in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 202(b). The Assistant Secretary shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate, and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

(b)(1) There is established, in the Office of Postsecondary Education, a Community College Unit (hereafter in this section referred to as the "Unit") which shall have the responsibility for coordinating all programs administered by the Secretary which affect, or can benefit, community colleges, including such programs assisted under this Act, and the Carl D. Perkins Vocational Educational Act.

(2) The Unit shall be headed by a Director who shall be placed in grade 17 of the General Schedule under section 5332 of title 5, United States Code.

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NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

SEC. 215. (a) The President shall appoint a National Advisory Council on Continuing Education consisting of eight representatives of Federal agencies having postsecondary continuing education and training responsibilities, including but not limited to, one representative each from the Departments of Education, Agriculture, Defense, and Labor, and the Veterans' Administration; and twelve members, not full-time employees of the Federal Government, who are knowledgeable and experienced in the field of continuing education, including State and local government officials, representatives of business, labor, and community groups, and adults whose educational needs have been inadequately served. The Advisory Council shall meet at the call of the chairman but not less than twice a year.

(b) The Advisory Council shall advise the Secretary in the preparation of general regulations and with respect to policies and procedures arising in the administration of this title.

(c) The Advisory Council shall examine all federally supported continuing education and training programs and make recommendations with regard to policies to eliminate duplication and to effectuate the coordination of programs under this title and other federally funded continuing education and training programs and services.

(d) The Advisory Council shall make annual reports to the President, the Congress, and the Secretary, commencing on September 30, 1981, of its findings and recommendations, including recommendations for changes in the provisions of this title and other Federal laws relating to continuing education and training activities. The President shall transmit each such report to the Congress with his comments and recommendations. The Advisory Council shall make such other reports or recommendations to the President, the Congress, the Secretary, or the head of any other Federal department or agency as may be appropriate.

(e) The Advisory Council may utilize the services and facilities of any agency of the Federal Government as may be necessary. The Advisory Council may accept, employ, and dispose of gifts or bequests to carry out its responsibilities under this title.

DEFINITIONS

Sec. 216. For the purposes of this subpart—

(1) the term "Commission" means the Commission on National Development in Postsecondary Education established under section 102;

(2) the term "Advisory Council" means the National Advisory Council on Continuing Education established under section 117;

(3) the term "adults whose educational needs have been inadequately served" means individuals eighteen years of age or older who, because of circumstances of age, sex, low income, handicap, minority status, rural isolation, status of unemployment or underemployment, lack of education, or other significant barriers have been discouraged from obtaining equal educational opportunities;

(4) the term "continuing education" means postsecondary instruction and support services designed to meet the educational needs of adults, including the expansion of available learning opportunities for adults whose educational needs are inadequately served by current educational offerings in their communities; and

(5) the term "adult population" means the population eighteen years old and older of a State and of all the States which shall be determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

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TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

Sec. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5 of the United States Code.

(b)(1) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in each of the grade levels GS–16, GS–17, and GS–18 of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

(2) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of title 5, United States Code, provide for the establishment in the Office created by section 209 of this Act of a number of scientific, professional, and technical positions outside of the General Schedule equal to the number of such positions which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

(3) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5 of the United States Code, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this Act and, on the day preceding the effective date of this Act, holds a position and has duties comparable to those of the position to which appointed hereunder.

(4) The authority under this subsection with respect to any position shall terminate when the person first appointed to fill such position ceases to hold such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as the individual occupied on the day preceding the effective date of this Act.

(c) The Secretary may appoint, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, up to 175 scientific, technical, or professional employees of the Office created by section 209 of this Act and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not [be equal to or in excess of the minimum rate of pay currently paid for GS–16 of the General Schedule under section 5332 of such title.] *exceed the maximum rate of pay for grade GS–15 in section 5332 of title 5, United States Code, except that the pay of any employee originally appointed under section 405(e)(5) of the General Education Provisions Act (effective prior to the amendments of section 301 of the Higher Education Amendments of 1986) shall not be reduced by reason of such maximum rate.*

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ADDITIONAL VIEWS OF SENATOR PAUL SIMON ON S. 1965, REAUTHORIZATION OF THE HIGHER EDUCATION ACT

Members of this Committee, particularly Senator Stafford who chairs the Subcommittee on Education, Arts and Humanities, and its Ranking Minority Member, Senator Claiborne Pell, should be commended for their hard work in developing a consensus on this important bill. While S. 1965 does not do all I would like to have seen done, the bill represents a very fine job under the most difficult circumstances.

I do have a very serious concern that I feel must be mentioned in this Committee Report. When we fashioned the Guaranteed Student Loan Program and received estimates on the costs of our changes and the program in general over the next five years, the estimates were based on assumptions which do not seem credible.

The interest rate for the Guaranteed Student Loan Program is fixed in statute, whereas market interest conditions tend to fluctuate widely and rapidly. As a result, the rates charged for student loans may be at great variance with market conditions, sometimes with surprising or unintended results. When market rates are low, students pay more than the Treasury does for its money and, in some instances, more than what lenders receive as a market-based return under current programs. When market rates rise, the government picks up the full tab in the form of increased special allowance payments. The history of the student loan programs would suggest that Congress cannot act quickly enough to keep up with the rapid changes in market conditions.

Guaranteed Student Loan Program (GSL) costs are based in large part on Treasury Bill rates, or T-Bill rate assumptions. The Congressional Budget Office provided this Committee with a projection of T-Bill rates over the life of S. 1965 which are largely concurred in by the Office of Management and Budget. The projections in T-Bill rates as they relate to the cost of the GSL program allow us to claim savings in the program and expand GSLs to serve more students. These assumptions, however, could also be a thief in the night if they prove to be false. If there is a shortfall in the projected savings in the GSL program those who make up that shortfall are likely to be low and middle income students who are Pell Grant recipients. If we must make up a shortfall in the GSL program the most likely source is from Pell Grant funding.

T-Bill rates have declined from a high of 13.44 percent in 1981 to 6.09 percent (for 6-month T-bills and 6.07 for 90-day T-bills) on May 6, 1986. Current projections forecast a continuation of that trend. I hope the CBO's crystal ball is right and that the trend continues. My fear is that if the estimates are wrong, and if T-bill rates do not fall to the projected 5.5 percent in fiscal year 1991, the estimated cost of the GSL program and rise since it is, in large part, based on T-Bill rates. If the estimates are wrong, the projected savings in the

GSL program in S. 1965 will not materialize. Interest rates higher than projected will mean increased subsidy costs for the GSL program and we will have to appropriate federal funds to pay for the subsidy and special allowance costs—whether we like it or not. When GSL estimates have been low in the past, we have almost always solved the problem by cutting costs in the Pell Grant program and campus based programs aimed at helping the poorest students. Low and middle income students, dependent on Pell Grants, experience cuts in funding to make up for the subsidy necessary for the GSL program. The poorest students in the federal student aid programs are the ones who must "pay the piper" for increased GSL costs.

I think it is imperative to bring this potential problem to the attention of my colleagues, not only as a caution about our attempt to restore a better balance between grants and loans over the next five years, but to make it clear that it is the grant program not the GSL program that will suffer if T-Bill estimates are low.

The GSL program is an entitlement—Pell Grants are not. We cut Pell Grants to make up for miscalculations in the number of GSL loans made and errors in the projected T-bill rate assumptions in the GSL program. Because of this, I favor making the Pell Grant Program an entitlement so that we will treat both Pell and GSL programs the same, or short of that, that we get better legislative control over the GSL program and the heretofore uncontrollable federal costs in this program.

PAUL SIMON.

ADDITIONAL VIEWS OF SENATOR DAN QUAYLE

The Committee chose to include a requirement that the General Accounting Office (GAO) conduct a study of the guaranty agencies that participate in the Guaranteed Student Loan (GSL) program. While I am supportive of the study, I disagree with the reasons given for the study in this report.

There has been a great deal of discussion among the members of the Committee as to the appropriate role of the state guaranty agencies and multi-state guarantors. Much of this discussion has focused on the nature of multi-state guarantors, which guarantee GSLs in several different states. The multi-state guarantors are seen by some as having an unfair advantage over state agencies in seeking out business, and are seen by some as conducting business in such a way as to cause confusion and double-borrowing by students.

I do not subscribe to these views. Multi-state guarantors have provided an extremely valuable service to many thousands of low-income GSL borrowers, attending all types of institutions. Historically, the multi-state guarantors have provided access to students that had no access in their own state, because there was no state guaranty agency, or because the state agency did not seek to provide wide access to lenders and students.

To imply that the GAO study must be conducted because of practices by multi-state guarantors that have "unintended consequences to the beneficiaries" of the program is a statement with which I disagree. Multi-state guarantors have been good for the GSL program, in that they have been the leaders in providing better service and access to all students, and they have done so while respecting the other state agencies. The GAO report is not being conducted because of program abuse by multi-state guarantors. The GAO study is being conducted because there is a serious concern on the part of the Senate over the default rate problem, and guarantee agencies are one of the keys to the reduction and prevention of defaults. Additionally, the subsidies of the guaranty agencies have been the subject of much discussion by the Congress during the budget reconciliation process. Because changes have been made to the agencies to achieve budgetary savings, it is appropriate to do a more complete study and review of their practices to determine what effect these budgetary savings will have on the viability of the state agencies and the multi-state guarantors.

DAN QUAYLE.

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